

# NOMINATION OF CAROL M. BROWNER

Y 4.P 96/10:S. HRG. 103-5

Nomination of Carol M. Browner, S.H...

HEARING  
BEFORE THE  
COMMITTEE ON  
ENVIRONMENT AND PUBLIC WORKS  
UNITED STATES SENATE  
ONE HUNDRED THIRD CONGRESS  
FIRST SESSION

ON  
THE NOMINATION OF CAROL M. BROWNER TO BE AD-  
MINISTRATOR OF THE ENVIRONMENTAL PROTECTION  
AGENCY

JANUARY 11, 1993

Printed for the use of the Committee on Environment and Public Works



MAY 14 1993

U.S. GOVERNMENT PRINTING OFFICE

62-722

WASHINGTON : 1993

For sale by the U.S. Government Printing Office  
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-040165-8



# NOMINATION OF CAROL M. BROWNER

---

Y 4. P 96/10: S. HRG. 103-5

Nomination of Carol M. Browner, S.H...

## HEARING BEFORE THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE ONE HUNDRED THIRD CONGRESS

FIRST SESSION

ON

THE NOMINATION OF CAROL M. BROWNER TO BE AD-  
MINISTRATOR OF THE ENVIRONMENTAL PROTECTION  
AGENCY

\_\_\_\_\_  
JANUARY 11, 1993  
\_\_\_\_\_

Printed for the use of the Committee on Environment and Public Works



MAY 14 1993

U.S. GOVERNMENT PRINTING OFFICE

62-722

WASHINGTON : 1993

---

For sale by the U.S. Government Printing Office  
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-040165-8

## COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

MAX BAUCUS, Montana, *Chairman*

DANIEL PATRICK MOYNIHAN, New York	JOHN H. CHAFEE, Rhode Island
GEORGE J. MITCHELL, Maine	ALAN K. SIMPSON, Wyoming
FRANK R. LAUTENBERG, New Jersey	DAVE DURENBERGER, Minnesota
HARRY REID, Nevada	JOHN W. WARNER, Virginia
BOB GRAHAM, Florida	ROBERT SMITH, New Hampshire
JOSEPH I. LIEBERMAN, Connecticut	LAUCH FAIRCLOTH, North Carolina
HOWARD M. METZENBAUM, Ohio	DIRK KEMPTHORNE, Idaho
HARRIS WOFFORD, Pennsylvania	
BARBARA BOXER, California	

PETER L. SCHER, *Staff Director*

STEVEN J. SHIMBERG, *Minority Staff Director and Chief Counsel*

# C O N T E N T S

## OPENING STATEMENTS

	Page
Baucus, Hon. Max, U.S. Senator from the State of Montana .....	1
Boxer, Hon. Barbara, U.S. Senator from the State of California .....	18
Chafee, Hon. John H., U.S. Senator from the State of Rhode Island .....	4
Durenberger, Hon. Dave, U.S. Senator from the State of Minnesota .....	12
Letters submitted for the record .....	38, 43
Faircloth, Hon. Lauch, U.S. Senator from the State of North Carolina .....	7
Graham, Hon. Bob, U.S. Senator from the State of Florida .....	23
Kempthorne, Hon. Dirk, U.S. Senator from the State of Idaho .....	7
Lautenberg, Hon. Frank R., U.S. Senator from the State of New Jersey .....	9
Lieberman, Hon. Joseph I., U.S. Senator from the State of Connecticut .....	16
Metzenbaum, Hon. Howard M., U.S. Senator from the State of Ohio .....	6
Mitchell, Hon. George J., U.S. Senator from the State of Maine .....	24
Moynihan, Hon. Daniel Patrick, U.S. Senator from the State of New York .....	1, 6
Smith, Hon. Robert, U.S. Senator from the State of New Hampshire .....	15
Warner, Hon. John W. U.S. Senator from the Commonwealth of Virginia .....	13
Wofford, Hon. Harris, U.S. Senator from the Commonwealth of Pennsylvania ..	13

## WITNESSES

Browner, Carol M., nominee to be Administrator, Environmental Protection Agency .....	24
Responses to:	
Committee questionnaire .....	66
Additional questions from:	
Senator Baucus .....	79
Senator Boxer .....	84
Senator Chafee .....	85
Senator DeConcini .....	96
Senator Dole .....	92
Senator Durenberger .....	89
Senator Kempthorne .....	90
Senator Lautenberg .....	80
Senator Lieberman .....	82
Senator Metzenbaum .....	84
Senator Moynihan .....	80
Senator Simpson .....	87
Senator Smith .....	91
Chiles, Hon. Lawton, Governor from the State of Florida .....	20
Prepared statement .....	21
Mack, Hon. Connie, U.S. Senator from the State of Florida .....	19

## ADDITIONAL MATERIAL

National Wildlife Federation, letter from .....	98
---	----



## NOMINATION OF CAROL M. BROWNER

---

MONDAY, JANUARY 11, 1993

U.S. SENATE,  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,  
*Washington, DC.*

The committee met, pursuant to notice, at 10:01 a.m. in room 106, Dirksen Senate Office Building, Hon. Daniel Patrick Moynihan [chairman of the committee] presiding.

Present: Senators Moynihan, Baucus, Chafee, Metzenbaum, Faircloth, Kempthorne, Lautenberg, Durenberger, Wofford, Warner, Smith, Lieberman, and Boxer.

### OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator MOYNIHAN. Good morning, ladies and gentleman, and our distinguished witness.

Two pleasant duties fall to me; first, to welcome to our committee two new members, Senator Faircloth of North Carolina and Senator Kempthorne of Idaho. We welcome you both.

As has been widely reported, Senator Bentsen of Texas will be nominated by President-elect Clinton to be Secretary of the Treasury, and in the touch-and-go of these matters, if he should get confirmed by the Senate, it has been the judgment of the Democratic Caucus that I would succeed to the Chair of the Finance Committee. It is further the judgment of the Caucus that in that event, our most distinguished colleague, Senator Baucus, will succeed to the Chair of the Committee on Environment and Public Works.

That being the case, it seemed most helpful to the committee and to our most distinguished nominee that Senator Baucus should chair this hearing and take further responsibility for doing so. And with that, I turn over the gavel to you, sir.

### OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. Thank you, Mr. Chairman. I appreciate your gracious introduction.

It would be my thought, with the approval of the members of the committee, that each member first give a brief opening statement, essentially in order of seniority, since we all appeared at about the same time. Following our statements—and I urge all of us to keep them brief—we then turn to the nominee. Actually, before that, I

believe that Senator Mack and Governor Chiles, who we are very honored to have here with us, will then introduce the nominee.

Following those introductions and statement by the nominee, it would then be my thought—again, with approval of the members of the committee—that members of the committee then ask questions of the nominee. I would ask that Senators hold their questions to five minutes. If there are subsequent questions, then we will have subsequent rounds.

If that meets the approval of the committee, I first welcome you, Ms. Browner, and I particularly welcome your family: your husband Michael, your son Zachary. And at an appropriate time, I would like you to introduce your family and say a few words about them. We would be honored to meet them.

I also want to welcome our colleagues from Florida, Senator Mack and our former colleague, Governor Chiles, whom we all respect and almost revere. I know of few Senators whom this body holds in higher regard the former Senator and present Governor of Florida, Governor Chiles.

Ms. Browner, as the eighth Administrator of the Environmental Protection Agency, you will have one of the most difficult jobs in Government. I cannot think of any other which would be more difficult. You will be responsible for enforcing the laws to protect our air, our water, and other natural resources—laws, I should note, that take up 11 volumes of the Code of Federal Regulations. You will supervise 18,000 employees, and you will manage a \$7 billion budget.

That's pretty imposing, but in fact you will have to do much more. For the past several years Congress and the Administration have been paralyzed by gridlock, particularly when it comes to environmental policy. The EPA has fought with the Competitiveness Council; Congress has fought with the Administration; and in Congress, Democrats and Republicans have fought with each other. As a result, with the notable exception of the Clean Air Act, very little has been accomplished.

In the meantime, the environmental toll has continued to mount. We have lost wetlands at the rate of 300,000 acres a year. We have generated mountains of solid and hazardous waste, while opposition to landfills and incinerators has intensified. We are still far short of our goal of making our waters fishable and swimmable. We have fallen behind schedule in implementing the new Clean Air Act, and some of our fundamental environmental laws, including Superfund and the Endangered Species Act, have been mired in controversy over objectives and over implementation.

Now, the American people expect all that to change. It's not that they want us to enact a shelf full of new laws just for the sake of appearing busy. Rather, they want us to establish priorities. They want us to cooperate. They want us to make those tough decisions. Most of all, they want us to raise our sights and concentrate on the legacy that this generation will bequeath to the future.

Environmental policy is critical to that legacy. After all, there are only three treasures that we as a society can leave to our children.

The first is a set of sound moral values.

The second is a strong economy.



The third is a clean, healthy, and beautiful planet.

As I see it, the most important part of your role as Administrator is to concentrate on our legacy to the future, and this committee will help you do just that.

So what does this mean for environmental policy? First, it means improving the implementation of our existing environmental laws. That will involve setting priorities and focussing our efforts first on our most urgent problems. It will also mean a more efficient organization that can substantially increase environmental protection, while at the same time reducing unnecessary administrative burdens and paperwork.

Second, it means carefully reviewing our existing environmental laws—Superfund, the Safe Drinking Water Act, the Clean Water Act, the Resource Conservation and Recovery Act—to determine where reforms are necessary. In those cases where we find that reforms are necessary, we're going to have to break old habits. We can't use the legislative process to make political statements, knowing that the bill won't pass, so that some special interest group will be pleased. And we can't pass laws without providing resources to the EPA or the States that are necessary to make the laws work, and we can't micromanage the EPA.

Third, it means developing fresh new approaches that will make American an environmental leader in the 21st century. We need to treat environmental protection as a global responsibility. We need to integrate trade policy and environmental policy, and we need to undertake a major national effort to develop the cutting edge of environmental technologies.

In proposing you to be the EPA Administrator, Governor Clinton has made it very clear that he plans to take precisely this kind of aggressive but pragmatic approach to environmental policy. As Secretary of Florida's Department of Environmental Regulation, you have demonstrated a strong commitment to environmental protection, but you have also demonstrated a flair for solving problems through negotiation and through cooperation when possible, rather than through confrontation.

I am particularly impressed by your efforts to solve Florida's wetlands controversy, to develop a workable cleanup program for underground storage tanks, and to get past the shouting and on with the work of restoring the Everglades.

I hope your experience here in the Senate will help you work closely with Congress. With the exception of a brief period of 12 years, this committee has a record of bipartisan support for EPA Administrators appointed by Presidents Nixon, Ford, Carter, Reagan, and Bush, and I think I can fairly say that the members of this committee all look forward to a strong working relationship with you, one based on mutual trust, cooperation, and consultation.

I would like to conclude by noting a speech that you gave in September to the Nature Conservancy. You spoke of your childhood in south Florida and how you learned the importance of the environment and natural beauty by living there, coral reefs, tropical hummocks, the Everglades. I found that to be genuine and very moving.

In my home State of Montana we don't have coral reefs, oceans, or the Everglades, but we do have snow-capped mountains, Big Sky vistas, pristine rivers and lakes for trout fishing. They teach us

profound lessons. And while the landscapes of Florida might be a bit different from the landscapes of Montana, the people of Florida and the people of Montana share much in common. They care deeply about preserving the beauty of their States, the surroundings that are part of their lives, and the legacy they leave to their children.

You and this committee must work together to make sure all that happens and to become better stewards of the environment—not just for us, but for your son Zachary and for all of our children.

Thank you very much.

I now turn to the ranking member of the committee, Senator Chafee.

#### OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator CHAFEE. Thank you, Mr. Chairman.

First of all, I want to say how happy we are that you are Chairman. I have to be careful in saying that; it's not that we weren't happy to have your predecessor, but he's going on to other things. I would say that Senator Bentsen's chances of being approved by the Finance Committee are excellent.

[Laughter.]

Senator CHAFEE. And I think that his chances of being approved by the Senate as a whole are also excellent, as we all hold him in such respect and esteem and, indeed, affection.

So as you leave, Senator Moynihan, we thank you for your service as chairman of this committee. It has been my privilege to be on this committee for 16 years with you. Senator Baucus is now taking over, and I know he will continue the excellent leadership that we have been fortunate enough to have on this committee. So congratulations to Senator Baucus.

Our committee room upstairs is being refurbished, but it is fortunate indeed that we were able to use this large one. I didn't know there would be such a tremendous turnout, and that's a tribute to you, Ms. Browner, and we're very, very happy to welcome you here.

Also I want to say how happy we are to see Senator Chiles—once a Senator, always a Senator; once a Governor, always a Governor—and Senator Connie Mack. We welcome both of you here.

Also I want to extend a particular welcome to the two new members on this side of the committee, Senator Faircloth from North Carolina—very glad to see you on the committee—and Senator Dirk Kempthorne from Idaho. We have very fond memories of Steve Symms here. Steve brought a certain flair to this committee that we didn't normally see, and he is a marvelous individual. I just want to say this about Steve Symms. I had the privilege to serve on this committee and on the Finance Committee with him for many years. We took a marvelous, wonderful trip to Brazil; some of the other members went on that. We know that you will do a splendid job on this committee, so we are very happy that you are here.

Senator KEMPTHORNE. Thank you very much.

Senator CHAFEE. I understand we have a new Democratic member, Senator Boxer, who I haven't had the privilege of meeting yet, but I look forward to seeing her.

Now, Ms. Browner, these hearings give us a marvelous opportunity to give you plenty of free advice. I have found that those who come before us for confirmation are always very receptive to the advice—before they are sworn in, that is. And perhaps you will remember some of this.

But in any event I have offered this to your predecessors, Bill Reilly, Lee Thomas, and Bill Ruckleshaus and the others, so there are three bits.

The first, please remember that the name of your organization is the Environmental Protection Agency. That's what it's all about, protection. It's not the Department of Environmental Management and it's not the Department of Environmental Regulation and it's certainly not the Economic Promotion Agency. It is the Environmental Protection Agency, and you are an advocate for the environment in this Administration. You are the environmental conscience of the Government. That's what it's all about.

Someone once told me—whether it is apocryphal or not, I'm not sure, but it makes a good story—that at the end of every day, Russ Train, one of your predecessors as EPA Administrator, used to say to his staff, "What have you done for the environment today?" And that's not a bad practice for you to follow likewise. So that's the first bit of advice.

The second is, please avoid the word "balance." It's a wonderful term that comes up all the time, but it always makes me nervous when anyone uses the word "balance" because it is in the eye of the beholder. Somehow, the word "balance" suggests that the scales have tipped too far in favor of the environment, that we're doing too much to protect the environment, and we need to change things and get this balance.

I personally don't feel we're doing too much to protect the environment in this country. I think there is a lot left out there to do.

Finally, I would urge you to look upon members of this committee as your allies. It's not a confrontational position that you have vis-a-vis this committee. We are out there to be helpful to you. Now, we may disagree; and indeed, within the committee itself there's going to be plenty of disagreement. But with you, we will agree more often than disagree. So please seek our help. If we can't give it, we'll tell you that.

I believe that, working together, we can do great things for this country of ours, and hopefully for the world, which Senator Baucus talked about a few moments ago. I think our goal as Senators should be to improve the environment for everyone, but especially the children across this land of ours and across the world likewise, and future generations. That's what we're thinking about. What kind of stewards of the environment of this Nation are we? Are we going to pass this Nation and the world on in better shape than we got it, or worse shape? Are we going to satisfy every desire that we have at the cost of our children and future generations? I don't think we should.

So we look forward to working with you. I am confident that you will do an excellent job, and am delighted that the President has nominated you.

Thank you, Mr. Chairman.

Senator BAUCUS. Thank you very much, Senator.  
Chairman Moynihan.

**OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, U.S.  
SENATOR FROM THE STATE OF NEW YORK—Continued**

Senator MOYNIHAN. Mr. Chairman, I would simply like to echo the statement of Senator Chafee, how pleased we are that you should be our Chairman-designate, and confirm the fact that may not always be evidence from a distance, Ms. Browner, that this has been a very bipartisan committee, especially in these matters. It is very rare for us to divide along party lines. Where we divide it is often where we just have differences of judgment and a lack of information, which I'll get back to later.

But for the moment I would just like to congratulate you and say how much I look forward to hearing from you.

Senator BAUCUS. Thank you, Senator.

Senator Metzenbaum is next.

**OPENING STATEMENT OF HON. HOWARD M. METZENBAUM, U.S.  
SENATOR FROM THE STATE OF OHIO**

Senator METZENBAUM. Ms. Browner, I can't tell you how pleased I am about your nomination. I think that you bring to the position a sense of commitment, a sense of experience, and you bring something else. You bring our good friend, Senator Lawton Chiles, back to the Senate to visit with us today.

You reminded me the other day of another position that I've held in the Senate, when you visited my office, one that I pride myself on. I think I probably do it better than being a Senator, and that is when I had the privilege of baby-sitting your little boy Zach when you had to go on the floor of the Senate and weren't allowed to take him on the floor of the Senate with you. I want you to know that my services continue to be available.

[Laughter.]

Senator METZENBAUM. Don't hesitate to leave him with us. We have all sorts of toys for him to play with.

I think that taking over the EPA at this point has to be a very exciting experience for you, because the EPA has been adrift for the last 12 years. I say that, notwithstanding the fact that I think that the present Administrator, Mr. Reilly, actually made a major effort to do the things that should be done and could be done, but he had a sense of frustration because some at the White House were not supportive.

In your case, it's 100 percent reversed. You've got the Nation's most outspoken environmental advocate as the Vice President-elect of the United States, a former employer of yours, which indicates that there will be a good working relationship between the White House and your agency.

And you have that experience of bringing the parties together, which was so eloquently described today in the Washington Post



article, which I think speaks well for the many potential opportunities that you will have to do the kind of job that needs to be done.

As Senator Chafee has so eloquently pointed out, there are so many areas in which so much can be and should be done, and I believe will be done.

I am very enthused about your appointment and look forward to working with you in a supportive position and cooperative role. I wish you well, and I think that together we are going to make the environment of this country, and maybe of the world, a little bit better than it is at the present time. I am very happy about your appointment.

Senator BAUCUS. Thank you, Senator.

Now I would like to turn to a new Senator of our committee from North Carolina, Senator Faircloth.

#### OPENING STATEMENT OF HON. LAUCH FAIRCLOTH, U.S. SENATOR FROM THE STATE OF NORTH CAROLINA

Senator FAIRCLOTH. Thank you, Mr. Chairman.

Ms. Browner, thank you. I am a very new member of this committee. This is my first meeting, and I will be very brief.

I know that we spend \$130 billion a year to protect the environment, and certainly the environment is of paramount importance to this Nation and to the people, but also because of the fact that we are running a deficit of seemingly unknown figures—but a tremendous amount—the American people, and particularly the people in North Carolina, are deeply concerned about the waste that might have happened in all of Government, and certainly that would include the EPA also.

You are going to be under constant pressure from many groups to spend more, do more, and some of it's going to be necessary. A lot of it is going to be necessary, but a lot of it will be unnecessary. I just hope that you will make your decisions—and certainly, your past history would indicate such—on facts and not on scare stories, and that your decisions will be made with due thought and consideration and not, in the North Carolina vernacular, on what we call “the excitement plan” but thought-out and clearly with the best judgment available at the time.

I look forward to working with you and being a part of the committee, and I can assure you that you will have my total cooperation. I had the pleasure, as a young man, to spend a lot of time in Florida, and I was teasing Senator Mack that it was in the farming area, through the middle of the State, that I spent 10 years there and did not know that it touched the ocean.

[Laughter.]

Senator FAIRCLOTH. I thank you.

Senator BAUCUS. Thank you, Senator.

Next, another new member of the committee, my neighbor to the west, from Idaho, Senator Dirk Kempthorne.

#### OPENING STATEMENT OF HON. DIRK KEMPTHORNE, U.S. SENATOR FROM THE STATE OF IDAHO

Senator KEMPTHORNE. Mr. Chairman, I appreciate that very much. I am honored to be serving on this committee with all of

you. I find, too, an immediate advantage of this seniority system, in hearing the ranking member state his thoughts on the word "balance." I'm afraid that may have been in my opening comments, and I assure you it is no longer.

[Laughter.]

Senator KEMPTHORNE. But, Ms. Browner, I am delighted to meet you. I look forward to working with you.

I also appreciate the fact that you have had State government experience. As you know, prior to my becoming a United States Senator, I had local government experience when I was Mayor of Boise, Idaho. I believe that State and local governments are the front line for efficient management and resolution of critical issues that will be facing all of us.

I was also very interested in your speech to the Nature Conservancy in September, 1992, when you said,

Just as growth advocates must understand that a clean environment is good for business, environmental activists need to recognize how important income growth is to a clean environment. A shrinking or static revenue marginalizes environmental protection as a public policy priority. In Florida, the recession has meant that budgets for sewage treatment construction and stormwater control programs were virtually eliminated. Hazardous waste cleanup was slashed. It is an enormous struggle to win the appropriations necessary for important investments such as land acquisition. The recession makes it easier to scapegoat environmental regulation and roll back protection and enforcement.

I appreciate and I agree with the statement that you made in that speech. I believe that environmental protection and economic vitality are not mutually exclusive; in fact, we must find that harmony between those two very important elements.

There is a sense among Idahoans that I represent—and I'm referencing ranchers, farmers, small businessmen and women, and municipalities—that Government overregulation is a problem that we're having to deal with, and it is having a negative impact on jobs. That brings about disharmony in that equation. I don't currently sense a partnership from the Federal Government with those entities, both municipalities and businesses, that are trying to bring about compliance. In fact, there is one Mayor in the State of Idaho whose small community—and most of Idaho is comprised of small communities—could not come into compliance. Instead of an attitude of partnership or cooperation, he was simply informed that if he did not comply, he would be charged \$25,000 a day until he came into compliance. His response was, "Friend, you just bought yourself a city."

[Laughter.]

Senator KEMPTHORNE. Well, I don't think that the Federal Government wants to bring about the collapse of local governments, and it's not in the business of putting businesses out of business.

So we need to determine how we will make this work. In the questions that I will be presenting to you I would like to go into just a little more detail with your thoughts and attitude.

I also have young children. I love my children, as you love your young son. We are dedicated to bringing out a beautiful and a healthy and a productive environment for our children and the children throughout this Nation and the world. So I am ready to be a partner with you and look forward to that strong partnership which I think we need at the Federal Government.

Thank you.

Senator BAUCUS. Thank you, Senator.

Next is Senator Lautenberg.

**OPENING STATEMENT OF HON. FRANK R. LAUTENBERG, U.S.  
SENATOR FROM THE STATE OF NEW JERSEY**

Senator LAUTENBERG. Thank you, Mr. Chairman. Congratulations on your new post. I look forward to working with you as we have in the past on significant environmental issues. Your authorship of much of the Clean Air Act will go down in history as a benchmark for sensible, effective environmental legislation.

Of course, Senator Moynihan will be missed in his role as Chairman but he will continue, as I understand it, to be a member of the committee, and we welcome that, particularly since our neighborhoods are very close together and when we solve a problem for one State, we solve it for the other State and the region as well.

I am delighted to welcome two colleagues, Senator Mack and the former Chairman of the Budget Committee on which I served, Lawton Chiles. The endorsement of each of you means an awful lot, I would say.

Ms. Browner, you carry a great deal of responsibility and knowledge and experience and we welcome you here and congratulate you. We believe that you represent a greater commitment to solving some of our Nation's environmental problems, and you bring the experience and the knowledge to fulfill that obligation. I look forward to working with you.

The election of Bill Clinton and Al Gore, I believe, signalled the end of the politics of division and legislative gridlock that has blocked the solution of many of our Nation's most pressing problems. It also marks the end of an environmental stalemate in many cases, and brings to closure an era of antiquated thinking about the environmental challenges we face. It shores up a view that I have, that environmental regulation is consistent with economic growth and should find a home in a Browner EPA.

A healthy environment is not only consistent with, but essential to, a prosperous sustained growth economy. President-elect Clinton and Vice President-elect Gore understand this truth well, and I, like Senator Chafee, accompanied Senator Gore to Rio de Janeiro and heard him speak eloquently about the need to combine environmental protection with consistent economic growth.

In my State of New Jersey we already know that a clean environment and a growing economy go hand-in-hand. Our State faces some of the toughest environmental problems in the Nation and has adopted some of the most far-reaching and innovative environmental laws; yet, until the most recent recession, New Jersey continued to enjoy robust economic growth. As a matter of fact, we were either number one or number two in per capita income in my State until this recession hit, and we are still ranked very highly among per capita incomes throughout the States. This included many industries regulated by tough environmental law.

Now, with a new, environmentally sophisticated team in the White House and with you at EPA, we ought to be able to move

quickly to break through the logjam that prevented progress in some of our most significant environmental problems.

We face many challenges. As I think you know from our earlier discussion, I chair the Superfund Subcommittee. We are concerned about the extension of that. We are concerned about clean water and RCRA and safe drinking water and radon and indoor air pollution, and I want to work with you to break the gridlock and to legislate the solutions we need to preserve our environment and foster our economy.

As you hear my comments, one has to balance the fact that I am very much for protecting and improving the environment, and I also come from the corporate world. I take pride in the fact that I was the chairman, CEO, and founder of one of America's successful companies, so when I speak about the environment and economic growth, I hope I speak with knowledge on both fronts.

On the Superfund program, pretty much everyone agrees that its underlying goal remains sound: the speedy, thorough cleanup of our Nation's toxic waste sites. Those who cause the environmental problems should be held responsible for cleaning them up. And while it is certainly far from perfect, Superfund has compiled a significant record of reducing environmental threats. Today, over \$7.4 billion worth of cleanups are underway or slated to be done. EPA has chosen the final cleanup remedy at over two-thirds of the private Superfund priority sites. In my State of New Jersey alone, this choice has already been made at three-quarters of the State's 113 Superfund sites. It's a record that we have that we're not too fond of, but we have the largest number of Superfund sites of any State in the country, and also are the most densely populated State in the country.

Further, the evidence shows that Superfund enforcement is extremely cost-effective. For every dollar that EPA and the Justice Department spends on Superfund enforcement, we get nine dollars for cleanup in return. So I am hopeful that over the next few years we will see much tangible progress in cleaning up our Nation's toxic waste dumps.

But substantial improvements must be made to the Superfund program. Problems include EPA's management—terrible management—of outside contractors for Superfund and other environmental programs; EPA's poor fiscal management of its own programs; and delays in cleanup. And EPA should not permit shifting the costs of cleanup to small businesses and other innocent third parties.

Congress is going to be reviewing Superfund this session. As Chairman of the Superfund, Ocean and Water Protection Subcommittee, I want to work with you to cut through the litigation costs and to keep Superfund cleanups moving along as rapidly as possible.

In the area of clean water, more than \$100 billion worth of sewage treatment plants must be built to handle our Nation's sewage adequately. In New Jersey alone, over \$4 billion is required to effectively deal with our sewage problem. We can't wait any longer without risking long-term damage to our precious coastline. When it rains, overflow from sewers pollutes our coast with raw



sewage, urban runoff, bacteria, industrial waste, and floatables like plastic containers.

Whether in Florida or New Jersey, the shore is a State treasure and it is a magnet for visitors from within and from outside the State. It's the engine that drives New Jersey's \$9 billion annual tourist economy.

These sewage overflows, combined with pollution from other sources, have gravely damaged this precious resource. Governor Chiles and Senator Mack both know how precarious some of the most wonderful natural resources are in the State of Florida as the result of excessive damage from pollution, contamination, and—in fact—development. That's one of the things we have to think about.

This problem must be addressed for New Jersey's well-being, but also for the rest of the country.

I also want to mention one final issue, not a new subject, solid waste. As a matter of fact, we even had some discussions about it on the floor of the United States Senate. Around the Nation we are generating increasing amounts of garbage each year, while at the same time landfills, where the garbage might be put, are closing. Reducing the amount of garbage we produce at the source and recycling the garbage that we do produce must be our priority. My own State of New Jersey is taking the lead in this effort by recycling over one-third of the municipal garbage that is created, but we also need a national solution to the garbage problem—not one that pits State against State in “garbage wars.”

The selection of a committed environmentalist like yourself, with a knack for aggressively crafting creative solutions to environmental problems, sends an unmistakable signal that this Administration means business on the environment. You understand that a clean environment and a prosperous economy go hand-in-hand, and they can be balanced.

[Laughter.]

Senator LAUTENBERG. You have a reputation as a tough but fair negotiator. I say that in affection, because I have a great deal of respect for Senator Chafee, and sometimes a word in one's vocabulary sounds better than a word in the other.

[Laughter.]

Senator LAUTENBERG. But you have a strong record of accomplishment in the short time you headed the Florida Department of Environmental Regulation, and with your experience as head of a State environmental department and your Senate experience, you ought to be well-prepared to lead our Nation into a new direction on the environment.

I look forward to working with you. I welcome you here, and I can't wait to get on with our mutual agenda.

Thank you very much, Mr. Chairman.

Senator BAUCUS. Thank you very much, Senator Lautenberg.

Next is Senator Durenberger of Minnesota.

OPENING STATEMENT OF HON. DAVE DURENBERGER, U.S.  
SENATOR FROM THE STATE OF MINNESOTA

Senator DURENBERGER. Mr. Chairman, thank you.

Ms. Browner, after all these little talks you're going to wonder why you took the job.

[Laughter.]

Senator DURENBERGER. I have two little hopes this morning.

One, I was reminded that back in late June or July of 1988, a couple of us Republicans had the hope that we could get our candidate for President on the record in favor of environmental issues by putting him on record in favor of creating a Department of Environmental Protection. I'll never forget the day that I brought this issue up at our caucus, and John Chafee and I were the only two people who stood up and saluted it at the time. Everybody else argued for balance and things like that.

But we went ahead with the bill anyway. We deliberately had only Republican sponsors on the bill. Unfortunately, Mike Dukakis was the first one to endorse it—

[Laughter.]

Senator DURENBERGER. —and for some reason or other it discouraged the Vice President from endorsing it at the time. But he did eventually, and once he was elected, he endorsed the bill.

Four years later we don't have it, and it is my hope to be able to address you as Secretary rather than Administrator. I hope that that is something that we can accomplish just as quickly as possible.

My other hope is an issue on which you are already prominent in your statements and in your work, and that is a hope that we focus on whole ecosystems as we work to protect natural resources. I think that for a little over a decade now—it goes back to Doug Costle when he was EPA Administrator—the EPA's principal concern has been the human health effects of toxic substances. And while human health is an ideal outcome of what has been referred to as environmental protection, it seems to me, and I trust to you, we need time to give the ecological effects of pollution more attention.

We need to consider the biological health of whole ecosystems. Our attention must go beyond specific pollutants and points of discharge, or specific development proposals.

I have used the Clean Water Act as an example because almost all of the regulatory work under the Clean Water Act has been focussed on the chemical quality of the water. Clean water has meant water free of pollution. Controlling conventional and toxic pollution is a necessity for life, but restoring our waters as natural resources also requires attention to its other characteristics, the physical and the biological that create the habitat for living resources, the fish and the wildlife that really are the bounty of a healthy resource.

The regulatory tools that we've developed under the Clean Water Act, such as water quality standards, effluent guidelines, discharge permits, all of them have been geared toward the chemicals and not the habitat. They need to be reworked with habitat and the living resources in mind as well. We made a start on an ecosystem

approach under the Clean Water Act with the work in the Chesapeake Bay and the Great Lakes and through the National Estuary Program.

Adding a watershed planning component to the basic structure of the Clean Water Act is an additional step we must take. We need an integrated view of each watershed if we're going to make the best choices, using our limited resources.

So I have deliberately confined my opening remarks just to this one part of it because I think it has an overreaching importance, but I hope we're entering a period when ecological concerns will have a higher priority at EPA. If that's to happen, then many of the basic building blocks in EPA's regulatory program are going to need reform. Aiming our efforts toward the health and the productivity of the whole of the system is a worthy goal for the EPA in the new era that dawns today. I welcome you as a leader in that era.

Thank you.

Senator BAUCUS. Thank you very much, Senator.

Next, from Pennsylvania, Senator Wofford.

#### OPENING STATEMENT OF HON. HARRIS WOFFORD, U.S. SENATOR FROM THE COMMONWEALTH OF PENNSYLVANIA

Senator WOFFORD. I too salute our excellent outgoing and excellent incoming Chair, and my new colleagues left and right.

I welcome Ms. Browner. I look forward to hearing you, helping you, working with you. So that we don't put that "hearing you" too far forward, I will only say today that I, too, was a State cabinet official on the receiving end of Federal laws and regulations, and I suspect that that will serve you in good stead as you deal with issues that literally cover land, sea, air, and everything in between.

I am delighted with your nomination, and good luck.

Senator BAUCUS. Thank you, Senator.

Next, Senator Warner from the Commonwealth of Virginia.

#### OPENING STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Senator WARNER. Thank you very much, Mr. Chairman.

I had the privilege of an extensive meeting with the nominee and I commend the President-elect and yourself, because you are superbly qualified to take on this important post.

Having said that, I want to direct a few remarks at my good friend and colleague, Senator Chafee. I had the privilege of serving under him for three years as his deputy in another Government agency, and therefore I can say to him unequivocally that I veto his opening statement.

[Laughter.]

Senator WARNER. Believe me, Ms. Browner, you have one of the most critical balancing responsibilities of anyone in the Administration. I will go so far as to say that when you get up each day you can say, "What have I done for America's environment?" But also, "What have I done to America's economy?" And I see that the nominee is nodding her head in assent to that comment.

President-elect Clinton today is working on health issues. Economic issues consumed his attention a few days ago. A package is being developed entitled, "Economic Stimulus." But you could make a decision to throw a switch and run that stimulus train right off the rail into the ditch. That's how serious these decisions are that you make each day. There's not a person on this panel or in the Senate or in the Congress or in this audience that doesn't want to improve America's environment, but you know full well that a jobless person cannot sit amidst the pristine bounties of our wonderful nature. So that's what you have to use as your compass as you take on these responsibilities.

To my good friend, Senator Metzenbaum, I disagree that for 12 years your agency has been rudderless, floundering. Bill Reilly did the best he could, and below him were literally thousands upon thousands of dedicated civil servants. Each of us deal with Government agencies throughout the various presidencies, but there is that reservoir of talent, the dedicated that stay there year after year, Administration after Administration, Administrator after Administrator, and most of us deal with our Regional Offices. Philadelphia takes care of my State; superb job, good people, very responsive to the calls from the Members of Congress, and they work hard.

But failure has been met along the way in many instances. When we talked, I was greatly impressed with your experience in trying to deal with the small towns and villages across this country.

Mind you, I came to the United States Senate in 1979, 14 years ago. One of my first tasks was to help James City County, Virginia, 27,000 residents in an area that is not bountiful in terms of the Nation's economy, to get a new water supply. I look you in the eye and I admit failure; 14 years we have been struggling. We have yet to get the first drop of water. But we have visited every hallway of your agency. We have gone to the Federal Court, the District Court, the Circuit Court of Appeals, the Corps of Engineers.

Something is wrong with Government when a little community is in such desperate need of water, and for 14 years the congressional delegation, Republicans and Democrats, have worked on it. We haven't made it.

That knowledge that you've had in working with those small communities, use it to helping them out. Also, as you look across the spectrum of your responsibilities, there are enforcement procedures. You don't have the dollars in your budget. You have to begin to take some initiatives; how do we inspire voluntary compliance? What can we do to get everybody on the bandwagon in a spirit of "let's comply as best we can," and not just start going to courts and boards and things of this nature?

I have a high degree of optimism that with your leadership, you are going to post new gains for this important agency. I shall also join my colleagues in supporting you to a Cabinet post, and sit at the round table, and there you will be, and your voice will be given equal respect to that of other members of the President's Cabinet.

I wish you good luck. Again, I enjoyed very much speaking with you.

Thank you very much.

Senator BAUCUS. Thank you very much, Senator.  
Next, Mr. Smith of New Hampshire?

**OPENING STATEMENT OF HON. ROBERT SMITH, U.S. SENATOR  
FROM THE STATE OF NEW HAMPSHIRE**

Senator SMITH. Thank you, Mr. Chairman. I also would like to echo the comments of others and congratulate you on your new post. I look forward to working with you.

And thank you, Mr. Moynihan, for all the courtesies you have extended to me on this committee over the past two years.

I welcome you, Ms. Browner and Governor Chiles and Senator Mack. It is good to see you both again.

This appointment may not be at the Cabinet level, but I think most people assume that it is in terms of the power of the position and the importance of it.

I might just say, the newspaper articles of late have been very good. I wouldn't mind having your PR agent for my next campaign—color photographs and glowing stories—it's certainly very good. You either don't have any enemies or you know how to handle them. In either case, it's very admirable, so I congratulate you on that.

I might also say that I have visited your State frequently and probably have a lot more knowledge on the Everglades than some people in the State of New Hampshire might be expected to have, as I have taken the tour on a number of occasions with the Park Rangers, as I indicated to you, and got a good feel for what the environmental problems are there. I certainly salute you for your interest in that area.

Although I am very proud of my party and very proud of my political views, in essence I am not a partisan person. I believe we ought to approach any issue on its merit or lack thereof and then proceed. If I could give any advice, don't get trapped into "nothing happened in the last 12 years" language game. I think most of us have had the opportunity and the good fortune to travel around the world and see other countries, and my sense is that when people cut down rain forests or plunder land or plunder wildlife, they usually do it to survive; sometimes they do it for profit, but in a lot of cases they do it simply to survive. I think that when you compare us to other nations in the world, we are an environmental leader. We have our problems. We have a lot of things to do; no question about it, but I think that most of us ought to start with the premise that this country, in a bipartisan way, has sought to work together to eliminate environmental problems. To me, to say conveniently that only in the last 12 years we've had this environmental downturn—not 12 and a half years ago or 12 years and a day, but just 12 years—my advice is to get that out of your speeches and get it out of your vocabulary and move on. I didn't say that you put it in your speeches, but I'm just saying that would be my advice.

The EPA does face a tremendous task. You have to formulate and implement policy to protect our country's health and environment; at the same time you have to recognize that there are limited resources to accomplish such a goal. I think that it's going to



take creativity, flexibility, prioritization, and frankly, a good, adequate risk assessment to be successful. I know that you will make every attempt to do that.

I think the challenge for both Congress and the Administration is going to be to preserve the intent and the goals of environmental laws, like Superfund and others, without encouraging unnecessary regulations that are going to strangle our Nation's businesses and our local governments, because that's where the resources are to clean up any problems that we have. As a State official, I know that you are acutely aware of those problems and what you have to deal with with the Federal Government.

In the State of New Hampshire—and it's certainly true for probably all the other 49 States—the situation is a serious and a growing problem. With safe drinking water requirements, many towns simply can't pay for them. Superfund costs have already put many small companies out of business. There just seems to be no recognition of the economic realities that exist, although Senator Warner alluded to it. It does not have to be economics versus the environment; they should be working together in tandem.

But on the other hand, we can't pass the burden of unfunded Federal mandates on to our States and local governments without sacrificing jobs and economic growth, and it also passes on a huge debt to our children, which is not fair either. I will be very interested in hearing your views on these, and I look forward to hearing your testimony.

I also want to thank you for the courtesy of the personal visit. It certainly is helpful to get to know someone before they appear before the committee. Thank you.

Thank you, Mr. Chairman.

Senator BAUCUS. Thank you very much, Senator.

Senator Lieberman.

#### OPENING STATEMENT OF HON. JOSEPH I. LIEBERMAN, U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator LIEBERMAN. Thank you, Mr. Chairman. I join with my colleagues in thanking Senator Moynihan for his extraordinary farsighted and visionary service on this committee. It is my pleasure that he will remain here, even as he ascends to the chairmanship of the Finance Committee.

I congratulate you, Mr. Chairman, on becoming Chairman here, and I welcome Ms. Browner.

Former Secretary of State Dean Acheson titled the book that he wrote about his experiences after World War II, "Present at the Creation of a New World." A lot of people have been quoting that title as "Post-Cold War." I have been thinking of it as I sit here this morning; in the first place, because by coincidence the last time I was in this room was last year, when then-Senator Gore in this room convened an extraordinary meeting of religious leaders, together with people from the public and private sectors, to talk about the environment from a theological perspective. Representatives of all religions were here, and the simple message was that we had a special and extraordinary responsibility in our time as stewards of the Creation.

The second way in which I think of being present at the Creation is that I think we really are present at the creation of a new era in environmental protection. In the first place, that is so because of the people involved: a new President, a new Vice President, a new Chairman of this committee, and a new Administrator of EPA. In that sense, some of the partisan differences that have existed before may not exist now, although they haven't existed much on this committee.

But what I want to suggest, and I am confident that you know this and the Chairman knows this, is that this is not only a change of personnel at the helm. It is, I think, an opportunity for a change of direction in environmental protection, because it seems to me that the four people I've mentioned—the President-elect, the Vice President-elect, the Chairman of this committee, and yourself—understand that the old ways are not working well enough in environmental protection, and that although these may all be Democrats coming to positions of power, it doesn't mean—and perhaps we can allay the fears of some out there in the regulated community—that this is going to be “command and control” going to the extreme.

I remember during the campaign that our beloved former colleague, soon to be Vice President, was referred to as the “Ozone Man.” I've heard no one yet, at least publicly, call you the “Ozone Woman,” but I want to say that from my conversations with you and my sense of the three other people I've mentioned, there is an understanding that the old command and control systems only worked so far; that while we may always need an environmental stick, ultimately it is the environmental carrots that will produce more results. We are talking here about pollution prevention, about market-based incentives for environmental protection, and I think ultimately about proving the point in policy and programs that you don't really need to choose between a cleaner environment and a stronger economy, that one inevitably requires the other, that we're not going to have a strong economy without a pure environment and that in fact environmental technologies offer us an opportunity for a great new economic growth and job creation.

So it is with that sense of optimism that we are not only at a new personnel era for environmental protection in America, but the beginning of a new substantive era in environmental protection in America that I welcome you. I note with pleasure as a former State Attorney General not only your service in Florida, but the fact that you served here in Congress, and I am sure that experience will help you help us set environmental priorities for the next decade.

I welcome you and I look forward to questioning you.

I thank the Chairman.

Senator BAUCUS. Thank you very much, Senator.

Finally, the last member of our committee present here today, and it is fitting that she is also one of the newest members of our committee. It is also appropriate that she represents the State of California, a State that is often in the vanguard, a leader in environmental policies. I'm thinking particularly of the Clean Air Act and the California Air Resources Board and the efforts they under-

took and the measures they came up with which in many ways were the precursors to many of the provisions of the Clean Air Act that this committee, the Senate, and the Congress enacted and the President signed into law.

It is a great honor to welcome a very dynamic, bright, and courageous new member of this committee from Southern California, Senator Boxer.

**OPENING STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR  
FROM THE STATE OF CALIFORNIA**

Senator BOXER. That was very nice, Mr. Chairman. Could you repeat that last part again?

[Laughter.]

Senator BOXER. I so appreciate your warm introduction, Mr. Chairman, and I wish you every good wish as you undertake this awesome responsibility. I look forward to working with you.

I must say to Senator Moynihan, I owe you a very special thank you because very early on you really encouraged me to press to get on this committee. It wasn't the easiest thing in the world. Thank you for your encouragement. I'm glad that you are going to be here working with us.

There's no question in my mind, and I think we pretty much agree on both sides of the aisle, that both a clean and a beautiful environment are crucial to all of our people. I can tell you that in California they are especially crucial for our tourist industry, for our fishing industry, for our people, for their health, for all our children, for our grandchildren. I think we owe them a clean and healthful environment.

I certainly do agree with the remarks of so many of the Senators this morning when they said that there is no conflict between a growing economy and a clean and healthy environment. The opposite is true. The way I would say it often on the campaign trail, and I guess I'm a little fresh from that experience, was that if you can't breathe, you can't work. There is a pretty direct relationship there.

I want to say to Ms. Browner how delighted I am with this nomination for so many reasons. You bring a real commitment to the environment, and that is wonderful. I think that your nomination shows that our President-elect and our Vice President-elect bring a real commitment, as well. The proof is that you are sitting here today.

I also think you have the experience to bring people together. This is crucial. You have to bring us together. You are going to have to bring industry together with environmentalists, and we're going to work to make sure that that happens.

I am also very pleased to see Governor Chiles and Senator Mack here, at your side. I think it speaks volumes about the kind of person that you are.

So again, Mr. Chairman, I am delighted to be with you. I look forward to sitting through this hearing, to questioning Ms. Browner when my time comes.

Thank you very much.

Senator BAUCUS. Thank you very much, Senator.



And finally, we can almost get to you, Ms. Browner.

Before we do, we are honored by the presence of Senator Mack and Governor Chiles from Florida. This is a new experience for them, sitting here for practically an hour, listening to Senators give opening statements. It's good for them.

[Laughter.]

Senator BAUCUS. Senator Mack, I believe you're going to give the first statement?

#### STATEMENT OF HON. CONNIE MACK, U.S. SENATOR FROM THE STATE OF FLORIDA

Senator MACK. Thank you, Mr. Chairman. Certainly, the experience is one that I will make my opening statements at my committee hearings much shorter in the future.

[Laughter.]

Senator MACK. I must say, I've been somewhat sensitized to the word "balance." As soon as Senator Chafee mentioned his disdain for the word "balance," at least with respect to the environment, I immediately started going through my statement to find out how many times I had put that in there. I will say in the beginning that it was only in there once; it is still in there once. I listened to both sides, people talking about the word "balance," and I think that the award goes to Senator Kempthorne, who said that he was going to remove the word "balance" from his opening statement and then spent the balance of his time talking about the importance of balance without using the word.

[Laughter.]

Senator MACK. In any event, it is my pleasure today to introduce to you Carol M. Browner, the current Secretary of the Florida Department of Environmental Regulation and the nominee for Administrator of the Environmental Protection Agency.

As all of you know, Florida is one of the most environmentally-sensitive States in the country. From our beautiful beaches threatened by offshore oil drilling to our heavy concentration of wetlands, from the Panhandle to the Keys, Carol Browner has dealt with almost every type of environmental issue imaginable. As Secretary of one of the largest State environmental regulatory agencies in the country, Carol has had to wrestle with balancing environmental protection and economic development, including the cost of overregulation.

Carol has been credited with streamlining the permitting process in Florida. She advocated legislation creating a small business technical assistance program to help small businesses comply with the Clean Air Act.

Her experience has also taught her how unfunded Federal mandates, through legislation or regulation, can harm a State's ability to respond to the unique needs of its citizens.

Carol has seen first-hand that regulatory management is not the only way, or even the best way, to protect the environment. Over 800 people a day move to the State of Florida. Millions of tourists from around the world visit our State every year, and a large part of the attraction is Florida's environment. In Florida, a sound envi-

ronment is important to the economy, just as a sound economy is important to the environment.

Those of us who stress the importance of property rights agree with Carol and the new Administration that there need not be conflict between economic growth and environmental protection. Numerous examples from Eastern Europe and the former Soviet Union to Haiti have vividly shown us that economic growth is essential to the achievement of environmental goals.

Carol has been a good steward of Florida's environment. I am confident Carol will be a strong voice with in the Clinton Administration to help pass legislation prohibiting all drilling off Florida's coast, and I look forward to working with her.

Mr. Chairman, I hope the committee will support Carol Browner's nomination.

Senator BAUCUS. Thank you very much, Senator.

Governor Chiles.

#### STATEMENT OF HON. LAWTON CHILES, GOVERNOR, STATE OF FLORIDA

Governor CHILES. Thank you, Mr. Chairman. Let me say that I am delighted to be here. I am certainly delighted to see you assume the chairmanship and to see Senator Moynihan assuming the chairmanship of the Finance Committee.

It is my pleasure to have an opportunity to speak for and to present Carol Browner to this committee.

I had a long statement, but I've learned to speak quickly now in my new capacity, so I'd like to just briefly say that Carol is a child of Florida, and all that that says with all the fragile environment that we have in the State of Florida.

She is also a child, I think, of the first generation of the 1960s that began to become aware of what we were doing to our environment. Most of us have had to sort of relearn and reteach ourselves—not you, Senator Baucus—but most of us have had to reschool ourselves. But I think Carol is of that generation.

Thirdly, I think Carol is a child of the Senate. Her first job out of law school was working for me in the Senate. She cut her teeth on drafting legislation to stop offshore oil drilling, through the appropriations staff that we had to work through. She helped to craft the purchase of the Big Cypress, the additional purchase that was so necessary to try to protect the Everglades. She has been in on all of the negotiations that took place. So she will not be someone sitting in an agency that does not recognize the workings of this body, the workings of the Congress, and I think that's very important.

Briefly, I just want to say that I think she has the experience of working with something that we tried to do in Florida, and that's to see if we could simplify the permitting process, if we could give someone an answer in a more timely way, even if it was a "no," rather than keeping it going for a long time, and why we couldn't do that at the same time—not sacrificing anything towards the environment; if anything, being able to be as firm, or more so. She has worked hard at that with her colleagues, working at economic development, working in these other areas. We think we are craft-

ing ways in which we can have better support from the community, and at the same time we can continue to protect things on the environment.

The Walker Ranch is just a good example to use. The Walt Disney Company wants to continue its 20-year expansion program; to do that, they have to destroy some wetlands. Normally, the process in Florida would be that you have to build artificial wetlands for every acre of wetlands that you're going to destroy. It hasn't worked very well; artificial wetlands aren't the way the good Lord made them. It's very hard for man to try to duplicate that.

So this process involved Disney spending about \$40 million to purchase a ranch that had tremendous possibilities for trying to preserve some 12 endangered species, and let that ranch be managed by the Nature Conservancy. That process has gone on; within less than a year, Disney got its permit. They can now continue their expansion. We're going to preserve a large body of land that has great ecological significance, and everybody is kind of happy. The environmentalists are happy; certainly, Disney is happy. It means that construction and building will go forward in our area of the State.

All of you know about her role in the Everglades. After we had spent years in litigating a matter in which the Federal Government is suing the State government and each side is spending millions of dollars in lawyers' fees and the process was not moving at all, we decided that we would settle that lawsuit, that we would move it back into the State arena. Certainly, her work in trying to see that that process moved forward is tremendously important.

So I think these are the kinds of things that we are going to be able to expect her to try to carry out for the Clinton Administration. Certainly, her experience with Vice President-elect Albert Gore and her experience in the Senate give her knowledge and experience that are going to be worthwhile.

Several of you have talked about the speech that she gave to the Nature Conservancy. I just want to quote briefly from a speech she gave in Florida in 1991 when she told the future leaders of our State,

You're the ones that care that your children may grow up under a permanently gray sky, with water they can't swim in, much less drink, with soil so contaminated that gardens are a nostalgic memory. You are the ones to carry the standard for environmental protection in the battle for the earth's resources. Past generations have left you a very difficult job, basically, an environmental mess. Rise to the challenge. Knowledge is truly power, and when coupled with the courage of your convictions, you will be invincible.

That's the kind of leader that we bring before you today.

I just want to say to you, I think you will be as proud of this vote of confirmation as I am today, and I feel like I'm sort of watching one of my children graduate, because I think Carol Browner is going to do an outstanding job as the Administrator of the Environmental Protection Agency.

[Governor Chiles' prepared statement follows:]

STATEMENT OF HON. LAWTON CHILES, GOVERNOR, STATE OF FLORIDA

Mr. Chairman, members of the committee, my name is Lawton Chiles and I am Governor of the State of Florida. I'm here this morning to speak on behalf of Carol

Browner's nomination to the post of Administrator of the Environmental Protection Agency.

I've known Carol Browner since 1986 when she came to work for me—just out of law school. I've watched her grow professionally and personally, and I want to tell you about who she is.

Carol grew up on the edge of the Everglades. She was born in Florida and she's always been proud to call herself a native—not an exotic.

As a native Floridian, the environment has always been an important part of her life. In fact, Carol has said many times that her earliest memories of growing up in South Florida are of its natural places—the coral reefs, the tropical hammocks and most importantly, our River of Grass—the Florida Everglades.

As a girl in the early sixties, Carol would spend hours after school hiking out into the glades. Back then, the Everglades was her backyard. Her neighborhood was the southernmost part of Miami. Now the city extends almost 20 miles farther south and the Everglades continues to recede—pushed back by development.

The Miami of Carol Browner's childhood was a small town with two-lane roads lined with palm trees and fruit and vegetable stands. It was a place where you could walk at night and smell lime blossoms in the air. This place exists only in her memory now. Watching this change—this destruction of the Florida she loved so much—forged her spirit of environmentalism.

Her personal commitment to environmental protection was obvious when I first worked closely with her. Her major responsibility in my office was developing environmental policy and legislation. I counted on her as a key player in the complex negotiations to expand the Big Cypress National Preserve in Florida's Everglades and she was instrumental in developing a ban on oil-drilling off the Florida Keys.

To her, this was much more than routine government policy-making. It was protecting the pristine land that she loved.

When I left the Senate, Carol became legislative director for then-U.S. Senator Al Gore, one of the most active federal policy makers on environmental issues.

From Tallahassee, I followed her work as she developed a reputation as a knowledgeable, skilled negotiator with boundless energy and commitment to the environment. That's why when I was elected Governor in 1990, I knew immediately who I would choose to manage the state's environmental protection efforts.

In fact, with critical environmental decisions facing the state, I made her my first appointment to head a state agency.

Putting her in charge of the state's environmental agency was a move many considered bold. After all, Carol Browner was a 35-year-old attorney and self-described environmentalist.

During her tenure as secretary of Florida's Department of Environmental Regulation, Carol pioneered a new brand of environmentalism, one that envisions environmental protection and economic development as compatible goals. On the surface that might seem an almost impossible concept, but time after time Carol proved it could work.

The Walker Ranch agreement she negotiated is one of her finest achievements. It was a settlement reached with the state, the Walt Disney Company and the Nature Conservancy. The agreement calls for the Disney Company to spend \$40 million to buy and restore the 8,500-acre ranch in Central Florida in exchange for permits that will allow Disney to complete its 20-year build-out.

The Nature Conservancy will ultimately manage this precious refuge that is home to 12 protected animal species.

The Walker Ranch agreement also signals a new approach to wetlands permitting—one that preserves and restores an entire system. The old approach merely required developers to create only man-made wetlands. Often these "created" wetlands fail to function properly. Probably Carol's most nationally recognized accomplishment was the successful settlement of the complex and costly federal lawsuit over pollution of the Everglades. That suit had cost our state millions of dollars in litigation.

It was through her leadership that the many diverse interests moved away from conflict and into constructive agreement.

Through all of the high-level negotiations and policy-making, Carol has never lost sight of environmental protection as it affects the lives of the people.

Carol has never forgotten the effect the environment had on her growing up and so in her work she always thinks of the children—of her young son, 5-year-old Zachary—and the kind of world her generation will leave to them.

In a speech she made to Girls State in 1991 she said:

"You are the ones to care that your children may grow up under a permanently grey sky. . . with water they cannot swim in, much less drink. . . with



soil so contaminated that gardens are a nostalgic memory. You are the ones to carry the standard for environmental protection in the battle for the earth's resources. Past generations have left you a very difficult job—basically an environmental mess. Rise to the challenge—knowledge is truly power, and when coupled with the courage of your convictions, you will be invincible."

To borrow from Carol's own words, America needs someone who has the knowledge and the courage of her convictions, and who will rise to the challenge of protecting our natural treasures.

Mr. Chairman and Committee members, I strongly recommend you confirm Carol Browner as administrator of the Environmental Protection Agency.

Senator BAUCUS. Thank you very much, Governor.

Before turning to Ms. Browner, I would like to take a moment to mention the two Senators, members of this committee, who are unable to be with us. One is your colleague and our colleague, Senator Graham, the other is our esteemed majority leader, Senator Mitchell. He is very proud to be a member of this committee. He chaired the Environmental Protection Subcommittee, as did his predecessor from the State of Maine, Senator Muskie. Senator Mitchell has authored the Oil Pollution Act, the Federal Facility Compliance Act, and the North American Wetlands Conservation Act. He very much wishes he could be here, but he also has other duties.

They have statements which will be included in the record.  
[The statements referred to follow:].

#### STATEMENT OF HON. BOB GRAHAM, U.S. SENATOR FROM THE STATE OF FLORIDA

Mr. Chairman, it is with great pleasure and genuine pride that I welcome Carol Browner to the Senate Environment and Public Works Committee.

I have known Carol and worked with her since 1986, when she was chief environmental adviser to then-Senator Chiles. Since then, her career rise can be described as little short of meteoric: after serving as Legislative Director to Vice President-elect Gore, a leading voice on environmental issues in the Senate, Carol became the second youngest Secretary of Environmental Regulation in my state's history.

In her two years at the helm of the nation's fourth largest state environmental agency, Carol has distinguished herself as a can-do problem solver who believes that consultation and collegiality achieve more than confrontation and dogma.

The proof, as they say, is in the pudding. Her very first major action was putting a halt to one of the most expensive and acrimonious environmental lawsuits in Florida's history concerning pollution of the Everglades. She managed to pull together all of the intensely competing interests and promote a unique settlement.

Carol's negotiation and management skills have served well not only the people of Florida but those of other states also. For example, Carol was a driving force behind an historic agreement among the States of Florida, Georgia and Alabama over the management and use of a major interstate river system that these three states share.

Repeatedly, she approaches problems in a collegial, inclusive and innovative way. Though she is clearly committed to environmental protection and preservation, Carol is not afraid to break new ground when all interests concerned can come out winners. Take, for example, her negotiation of a precedent-setting project with the Disney Corporation in which she approved Disney's expansion into approximately 400 acres of wetlands in exchange for preservation of an environmentally valuable 8,500 acre parcel known as the Walker Ranch.

Unlike many state regulators, Carol also brings to EPA a savvy knowledge of the legislative process. Her time on Capitol Hill served her well in Tallahassee when, for example, she was able to guide through our state legislature a new underground storage tank cleanup program that included a dedicated funding mechanism: quite an accomplishment given the economic realities of the times.

Under Carol's predecessor, Bill Reilly, Congress began renewing the historically good working relationship with the EPA. I have no doubt that with Carol's substantive knowledge, legislative skills, management abilities and her overall inclusive approach, this relationship will reach its full potential.

Likewise I am confident that Carol will continue the upswing in morale at and respect for the Agency that Bill Reilly set in motion.

In sum, Mr. Chairman, let me congratulate Carol on her nomination to this important post. President-elect Clinton made an absolutely five star choice. I urge my colleagues to wholeheartedly support Carol as she embarks on the vital mission of protecting and preserving our nation's environment.

---

**STATEMENT OF HON. GEORGE J. MITCHELL, U.S. SENATOR FROM THE STATE OF MAINE**

I am pleased to offer my full and enthusiastic support for the designation of Carol Browner to be Administrator of the Environmental Protection Agency. She will be a strong asset to the incoming Administration.

Once confirmed, Ms. Browner will be the first former State environmental agency director to become Administrator of EPA. This experience will stand her in good stead as she leads implementation of the Nation's environmental statutes.

As she well knows, EPA, the States and industry face mounting difficulties in carrying out requirements for the protection of public health and the environment. Improved cooperation and communication will be necessary to fully and effectively implement these requirements. Ms. Browner has already demonstrated she is fully capable of making these improvements.

As Secretary of the Florida Department of Environmental Regulation, Ms. Browner managed an agency that was involved in some of the most controversial issues facing Florida. She confronted these challenges and developed consensus agreements that protect both the environment and the economy.

Ms. Browner is respected by industry, small business, environmentalists, and elected officials. She is experienced, creative and practical in dealing with a broad range of issues from recycling to the Florida Clean Air Act, which she helped shepherd through the State legislature. Her ability to focus on the essentials and not be distracted by polemics makes her a gifted leader and a powerful force for the environment.

In addition, she has shown a gift for enhancing the morale of those who work for her so that they are more motivated to get the job done right rather than devolving into unnecessary confrontation.

It is time for an Administrator who will focus on the large task facing America and will help EPA become a partner, not just a protagonist, in environmental protection. Ms. Browner will be such an Administrator. Her State experience, her experience in addressing the needs of small businesses and small communities make her a seasoned professional well qualified to be Administrator of the Environmental Protection Agency.

Senator BAUCUS. Senator Baucus, Ms. Browner, we are honored to have you here. We would be particularly honored if you could introduce your family.

**STATEMENT OF CAROL M. BROWNER, NOMINEE TO BE  
ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY**

Ms. BROWNER. Mr. Chairman, my family is with me today. My husband, Michael Podhorzer; my son, Zachary; my parents, Michael Browner and Isabella Harty-Hugues; my sister, Stephanie Browner; and my mother-in-law, Naomi Podhorzer.

Senator BAUCUS. We know how proud all of you are. I agree with Senator Chiles that in a sense this is like a commencement, at least for you, Ms. Browner. We are happy to have you proceed.

Ms. BROWNER. Thank you.

Chairman Baucus, Chairman Moynihan, Senator Chafee, members of the committee, I am deeply honored to be here today to be considered for the position of Administrator of the Environmental Protection Agency.

I would like to thank Senators Bob Graham and Connie Mack for their support. I would especially like to thank Governor Lawton Chiles for being here; his integrity and commitment to public serv-

ice have inspired me since my youth, and he has been an invaluable mentor for me.

I am proud to have my family here with me today. Many of you spoke of your families. I think that our families, and particularly our children, have inspired many of us in our work to protect this Nation's environment. I grew up in South Florida, in a house from which I could bicycle into the wilderness of the Everglades. I want my son Zachary and his children to grow up and enjoy the same natural wonders that we all have enjoyed. I am convinced that it will now be possible to make the investment in our economy that we so desperately need to preserve our air, land, and water.

I welcome this opportunity to begin a dialogue that I hope will set a new standard of cooperation and communication between Congress and the EPA. You have made invaluable contributions to the cleaning of our air and water and to making our communities healthier and safer. I look forward to working with each and every one of you.

I also hope my tenure will mark a new era in communication between the EPA and America's business community, between environmentalists and business leaders. The adversarial relationship that now exists ignores the real complexities of environmental and business problems. It creates damaging delays in the regulatory process, and often unnecessarily harms business without significantly aiding the environment.

My experience in Florida has shown that we can ease the regulatory burden on business without compromising the environment. EPA must deliver quick, consistent decisions. We must recognize the special problems of small businesses. We must spend more time listening to the particular concerns of businesses and communities affected by environmental problems, and we must recognize the value of State regulators.

The EPA should promote and encourage rewards for businesses that take the lead in developing pollution prevention and recycling strategies.

As head of the Florida Department of Environmental Regulation, I had the opportunity to put many of these strategies to work. This year I engineered an agreement between the State and Walt Disney Company, which you heard about from the Governor, which will transform an 8,500-acre ranch into a wildlife refuge. Working together, the State, Walt Disney, and the Nature Conservancy negotiated an agreement that protected this sensitive site and allowed needed economic growth and development.

I am also proud of the Florida Clean Air Act, a bill passed by the Florida Legislature which creates a framework for the State DER to obtain delegation from EPA to implement the Federal Clean Air Program, thereby removing a layer of bureaucracy and allowing Florida companies to do their business within their own State.

Working closely with industry representatives, I established a coalition of business leaders that agreed to implement an annual fee structure for major sources of air pollution in advance of the Federal Government deadlines. This gave my agency the resources it will need to operate efficiently and to provide services to affected businesses.

We were also able to establish a Technical Assistance Program to aid small businesses, many of whom had never participated in an environmental regulatory program, but who will now be covered by the Clean Air Act.

The EPA is staffed by thousands of dedicated, professional employees. I look forward to working with them. I look forward to supporting their efforts and making a talented group of men and women even more effective.

I will encourage not only business participation, but also community involvement on environmental issues. We must respect the families and communities on whom the effects of economic development and environmental regulation ultimately fall. We must bring these people into the process. We must restore voluntary compliance with the Nation's environmental laws by making them fair and efficient, by forcefully executing them, and by increasing public disclosure of environmental practices.

And finally, I believe we can best join the need for balancing growth and the environment by unleashing American ingenuity and creativity to revive our economy and create a new generation of environmental technology.

My husband Michael and I are both first-generation Americans. My father and my mother's family emigrated to the United States because they believed that this Nation provided just that kind of support and encouragement for innovation and ingenuity. My parents are now college professors, products of a unique system built upon the idea that with enough faith and effort, no challenge is too difficult; a society that sees opportunities, not problems.

I hope that, if I am confirmed, I will live up to the standards set by tens of millions of people like my parents, who came to the United States to unleash the continuing revolution of imagination that has made this the greatest country on earth. They are people with no greater ambition than to do more for their Nation than it has done for them, and to leave America a better, safer place for their children.

Thank you.

Senator BAUCUS. Thank you very much, Ms. Browner.

First I have a couple of questions which I must ask as acting chairman of this committee.

First, are you willing, if requested by any duly constituted committee of the Congress, to appear in front of it as a witness?

Ms. BROWNER. Absolutely.

Senator BAUCUS. And second, do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you are confirmed to this position?

Ms. BROWNER. Mr. Chairman, I do not.

Senator BAUCUS. Thank you.

Ms. Browner, I have questions with respect to three overarching environmental issues. I won't have time, obviously, to address all of them, but they are these.

First, what are our national environmental priorities? Many members of this committee have recently alluded to the buildup of various environmental statutes in the last two decades, the Clean Air Act, the Water Pollution Act—about a dozen Federal statutes. The basic question is, what are our environmental priorities? Obvi-



ously, if everything is a priority, nothing is a priority. More precisely, what criteria do we set in determining our environmental priorities? And what resources do we then dedicate to those priorities? That is, what are our most urgent environmental needs that deserve the greatest attention? That's one issue that I will ask you about.

Another is our Federal-State relationship. As you well know, as Administrator of the Florida environmental agency, many State officials routinely lament EPA's tendency over the years toward bean-counting, micromanagement, redundancy and overlap; they are very upset with the Federal office as it deals with the State regulatory agencies. The same could be said with respect to various private concerns and private entities. The question, obviously, comes down to the degree to which we retain the command and control scheme we now have essentially in our environmental statutes, the degree to which that is changed. I think Senator Lieberman touched on that a bit. I would like your thoughts generally about the Federal-State relationship.

As I mentioned in my introduction of Senator Boxer, the State of California and many other States are often in the lead in developing environmental policy. I would like your general thoughts on how we restructure that relationship between Uncle Sam and the States.

The third, generally, is American leadership in world environmental policy. I am speaking not only about global warming and stratospheric ozone depletion, the Marine Mammal Protection Act, and the various international environmental agreements—those are critical, but I am speaking also about the convergence of environmental policy and trade policy, certainly arising with the pending North American Free Trade Agreement. Environmental policy is very important now in trade laws. Also, I am sure there is going to be a "Green Round" of the GATT in the future; that's assuming that the present Uruguay Round is concluded. And beyond that, you mentioned and others have mentioned a greater focus in America on environmental technologies. How can we dedicate more resources in the development of environmental technologies in this country for our own firms, for ourselves, and also to sell overseas so that we can compete overseas?

I know one of your mentors, the Vice President-elect, Senator Gore, when he was in Rio de Janeiro—I saw it, and Senator Chafee and others who were in Rio de Janeiro for the Earth Summit saw it—there is a whole panoply of environmental technologies produced by and marked by Japanese companies and German companies, but not by American companies.

So generally those are the three areas. I would like to begin with the first; that is, your national environmental priorities and the criteria that you would use in setting them.

Ms. BROWNER. Mr. Chairman, I think perhaps the most important thing we can do for the future of environmental protection in this country is to begin to move our efforts and activities upstream, to look to opportunities for pollution prevention, to look for market incentives to encourage people to make the right choices on the front end, and as you said, to develop the technologies that will allow us to be a world leader.

Senator BAUCUS. Could you tell me what criteria you used as a Florida Farm Loan Administrator in determining those priorities?

Ms. BROWNER. We used a variety of criteria. We looked at the resources that were available, we looked at the communities who were affected by the problems, and we sought their involvement in determining how we should allocate finite resources. We also worked very closely with the business community. I think it has to be an open, inclusive process. I would look to work with this body in establishing the appropriate priorities for moving the environmental agenda forward.

Senator BAUCUS. I appreciate that, but are you then saying that not every environmental initiative in Florida received the same priority, but rather they received different priorities?

Ms. BROWNER. Yes, Mr. Chairman, that is right. Inevitably, we could not do all that perhaps we would have liked to do.

Senator BAUCUS. I think that's an important concept. Because I know in the national environmental statutes, I think there is a bit of a tendency to try to do too much of everything at the same time, a procedure which is very difficult to follow, and for which we don't have the resources.

Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman.

Mr. Chairman, we are awash with goodwill here today, and I would just like to correct one thing on the record. The suggestion is that the country has been environmentally dormant for the last 12 years, and that this Administration hasn't done anything. That's just nonsense.

I just quickly made a list of some of the achievements of the past 12 years, the Clean Air Act of 1990, a very, very significant step forward, the Clean Water Act of 1982 and 1987, the Safe Drinking Water Act of 1986, Superfund of 1986, RCRA of 1984, a RCRA that I think we are going to find plenty of challenges getting through in 1993, by the way, Endangered Species Act of 1982 and 1988, the Coastal Barrier Act of 1982 and 1990, and then Bill Reilly, working with the State Department and the Montreal Protocol in 1987 and the London Agreements, and changes to that subsequently.

So you're not stepping into an area that's been dormant. I'm very proud of your predecessors under the Republican Administration and what has been achieved. I just want to put to rest the suggestion that nothing has happened, it's been an environmental wasteland. That's just not so.

Now, I would like to address the Safe Drinking Water Act briefly. New requirements came into effect in January, and we found across the country, in my State and likewise elsewhere, great difficulties in the communities, particularly the smaller communities, setting up these monitoring requirements that are required under the law. What we did last year was Senator Lautenberg and I and some others offered some amendments to help out the small systems with their testing and provided that if they hadn't found that particular contaminant, they didn't have to test for it in the next round.

The problem, as I understand it, is making use of this flexibility that we have given to the States. To get the flexibility, they have to ask for waivers. And that takes a lot of paperwork and has not

been successful, at least in the reports that I'm getting back, not only in my own State but elsewhere. What can we do about this, and do you have any thoughts on it?

Ms. BROWNER. Senator Chafee, we have certainly had a similar experience in Florida. We have far too many small systems that may not be able to come into compliance with the testing requirements under the Act. One of the things that I have often wondered is why in this day and age of computers we couldn't make better use of computer reporting, and thereby establish almost a self-executing mechanism where if a contaminant was not found in several quarterly reports then the system would no longer be required to actually test for that.

As you know, these are expensive tests, and it does seem that a solution should be available, and I certainly understand the problem first-hand.

Senator CHAFEE. Well, I'm not the person in this committee, certainly, that knows most about this. Senator Durenberger has been far more active in this than I have. But this came up last year, and I'm getting a lot of complaints about it and the costs involved.

I'd like to now address the Clean Water Act. What do you see as the future of the revolving fund? Do you know what the Administration's thoughts are on that? As you know, at one point some 15 years ago we were funding this at \$4 billion a year. Now we're down to \$2.5 billion, which we've been going along at. The revolving fund has been a success. Do you anticipate continuing that? What thoughts do you have on that?

Ms. BROWNER. Senator, I understand that President-Elect Clinton has also expressed some interest in perhaps seeing the fund continued. It's been such a tremendously successful program in terms of small communities across the country and their ability to comply with the law through the use of the funds.

As you all know, the President-Elect is in the process of looking at all the many, many complicated budget and economic issues facing this country, but I certainly think that this is one worthy of discussion.

Senator CHAFEE. OK.

Finally, on Superfund, we're going to go into that, as you know. Have you studied that very much, and do you have any views on the reauthorization?

Let me just say, because my time is up, I would hope in the course of reviewing it, because I'm sure you will say yes, you're going to look into it, but I would suggest that you give some thought to these ideas that some of the insurers have brought forward. Superfund has been incredibly expensive. It's been a bonanza for every lawyer in the Nation. They have to hire a hall for the meeting of all the lawyers that are involved. I personally am going to spend some more time on this in 1993, and hope you alert your folks to some alternatives to the way we have been proceeding. It just goes too slowly.

Thank you, Mr. Chairman.

Senator BAUCUS. Thank you, Senator.

Ms. Browner, I might say to you, that you certainly have the option to respond in writing to any of the questions that have been

asked, so long as you send your written responses to this committee by the end of this week.

Ms. BROWNER. Certainly.

Senator BAUCUS. I might also advise the members of the committee that they too can submit written questions to the nominee, but again so long as those written questions are received by the committee staff by 5:00 o'clock p.m. today, so that Ms. Browner will have an opportunity to respond to them. And, all written statements for the hearing record must be submitted within two weeks.

Senator Moynihan.

Senator MOYNIHAN. Mr. Chairman, I agree with the previous speaker that these committees can get too bipartisan, and I would like, in the spirit that he spoke, I would like to speak. Ms. Browner, are you aware that not very long ago there was a Nantucket branch of the Chafee family that went out in sailing ships and murdered whales for money?

[Laughter.]

Senator MOYNIHAN. Well, deponent sayeth not. Well, anyway.

[Laughter.]

Senator MOYNIHAN. I would like to agree with my esteemed colleague and say that under Mr. Reilly, the EPA began to get a kind of administrative stability. He was there for four years. His predecessors were there for two, on average, and you can't do it in that time frame. I hope that this will continue, and I agree with the Chairman, if there's one subject I think all of us have concern with, it is priorities.

Senator Faircloth, I believe, spoke of the excitement factor, is that what they call it in North Carolina? The excitement factor takes off on a lot of priorities that are understandable but aren't very durable. We have been working in this committee, we have been holding hearings, we have legislation on risk assessment. I think we might find all across here that we all have a sense that EPA institutionally needs to move toward a more mathematically based, scientific based, assessment of what are the risks to health, what are the risks to the environment. The GAO, in its transition report, said that.

Have you any thoughts in this area? Because you have to rank. President Kennedy used to say to govern is to choose. And you can't have everything. What do you want first? What's second? Do you have some feeling on that?

Ms. BROWNER. Senator Moynihan, maybe I should defer to Senator Chafee to respond first to your comment.

Senator MOYNIHAN. He has nothing to say. It's true.

[Laughter.]

Senator MOYNIHAN. They thereafter took the bones and carved pagan images into them and sold them.

[Laughter.]

Ms. BROWNER. Chairman Moynihan, I think you raise an extremely important point, the need for greater scientific analysis and understanding as we set the priorities and as we begin to develop these solutions. In Florida we are participating in the EPA risk assessment program. They have grants to the States. We did choose to apply for one of those. They were not automatic. In fact, they couldn't even fund our entire program, so we have put up



State money because we understand that this is a tool that could be very important to our agency in determining how we proceed in the future.

Senator MOYNIHAN. We have legislation, and could I perhaps hope that you will take a look at it? We have had some good hearings, and a lot of cooperative people out there trying to think, how do you assess what is first and what is second, and how do you get things done.

Senator Chafee's former subordinate mentioned trying to get some water to a small town in Virginia. We all face this. If there is one story we will tell you from back home, it's that EPA thing that never happens. Even before Senator Warner got to the Senate, I got money to dredge some PCBs that were dumped by the General Electric Corporation at Fort Edward in the Hudson River. Those who have seen *The Last of the Mohicans* will know that Fort Edward is the place that didn't get the word that Fort George was under attack by the French. It wasn't that far away, but far away enough.

That was 1978, the PCBs. They are still there, dredging now, plumbing, as they say, toward Poughkeepsie. It's a question of what comes first and second and third, and may we hope that we can engage you in this enterprise.

Ms. BROWNER. Absolutely. I look forward to it.

Senator MOYNIHAN. Thank you very much.

Senator BAUCUS. Thank you, Senator Moynihan.

Senator Metzenbaum.

Senator METZENBAUM. Ms. Browner, I think that the Chairman alluded to the NAFTA agreement, and I am frank to say that I am much concerned about it. Not only am I concerned about American jobs flowing to Mexico, but I'm concerned about the environmental consequences of NAFTA. I'm particularly alarmed about the dreadful environmental conditions along the U.S.-Mexico border which could worsen under NAFTA, and I'm frank to say I visited there, and it was far worse than I even thought it would be.

President-Elect Clinton has pledged to negotiate tough environmental enforcement and cleanup agreements with Mexico. As the head of EPA, you would have a prominent role in such negotiations. Have you given any thought to this subject yet, as to how you might approach this issue? Because I'm not certain what we can do, what we can say to Mexico, what we can put into the agreement. Do you have any thoughts on it at all?

Ms. BROWNER. Senator, I have not thought about the specific details of what an agreement might look like. President-Elect Clinton has indicated that he believes an ancillary agreement to NAFTA regarding these issues would be appropriate, and I look forward to working with others in the Administration to develop such an agreement.

Senator METZENBAUM. I hope we can work with you, I hope we can make some progress on that subject.

On another subject, 27 million Americans and Canadians depend upon the Great Lakes as their drinking water source. The basin is home to 40 million people. It's an unparalleled recreation and fishing resource. Under your predecessor, EPA began an experiment in geographic targeting with the Great Lakes as its flagship program.

For the first time, EPA looked at the myriad of environmental problems and tried to fashion solutions in a comprehensive way. The experiment has just begun.

I assume that without any reservation you would be prepared to indicate that you are prepared to continue that effort and perhaps implement it even further? Am I correct in that?

Ms. BROWNER. Yes. I am familiar with that. We have undertaken similar projects on a smaller scale in Florida and found them to be quite productive.

Senator METZENBAUM. Last session, I actually proposed legislation to improve the way we manage and dispose of contaminated sediments in the Great Lakes. I plan to reintroduce that legislation shortly. I hope I can work with your department and you in this near future.

Do you have any specific thoughts as to how we can better manage contaminated sediments not only in the Great Lakes but in all water bodies?

Ms. BROWNER. I am not familiar with your legislation but I certainly will take a look at it. I think the challenge in most instances, I know in Florida in dealing with sediments, is the appropriate disposal of those sediments and development a cost-effective mechanism. I think it is important in developing a program for disposal that we look at the unique situation of an individual system. There will not necessarily be one methodology that will work for all disposal and we need to bring those considerations to the table.

Senator METZENBAUM. Last Friday, the U.S. EPA approved the test burn plan for the controversial WTI Hazardous Waste Incinerator in East Liverpool, Ohio. My guess is you are somewhat familiar with it. The Vice President-Elect has spoken publicly about the subject.

The test burn will take a week or two to complete, meaning that it may not be finished until after the inauguration. After the trial burn is complete, WTI must obtain U.S. EPA approval again in order to begin post-trial burn commercial operation while the results of the trial burn are being analyzed.

I and others believe there has been a long history of U.S. EPA bias in favor of WTI at the expense of the local community. As a matter of fact, this committee last year added an amendment, at my instance, to RCRA prohibiting any further development of any further activity at the WTI site until all legal actions had been resolved.

My question to you is, can you tell me how—I'm not asking you the final bottom line decision—but how do you intend to deal with this situation, assuming the trial burn isn't completed until you take office?

Ms. BROWNER. Senator, this is a very difficult issue. I have not seen the EPA files. I am familiar with this issue only through press accounts.

It would be my intention to thoroughly review the files, to participate in the GAO report that I understand is ongoing. I do not want to in any way prejudge the ultimate outcome. I will work with this body, with the citizens of Ohio and the GAO to resolve this.

Senator METZENBAUM. My time is expired, but I hope in looking at it you would note the fact that the EPA has actually played some games that were totally inappropriate, in having a memo which indicates "We'll do this, and we'll go through this step and we'll go through that step and this step," but when we got it all done, they made it quite clear they intended to go forward with an approval. This was before they had heard the case, which was tantamount to a judge saying "This is the way I'll rule, but I'll go through some of these procedures to make it look as if it were a real contentious matter."

Thank you. I wish you well.

Senator BAUCUS. Thank you, Senator.

Senator Faircloth.

Senator FAIRCLOTH. Thank you.

Ms. Browner, there might not be universal agreement on the Environmental Protection Agency, but there is close to it. We have total agreement within this Congress that we have to reduce the deficit, that it's totally out of control, and either we do something about it or not many of the other things will matter.

Do you see a possibility of operating the EPA in a much more efficient manner, that you could support a freeze on the budget as it is, or hopefully even a reduction?

Ms. BROWNER. I share your concern, and I think everyone is concerned that the deficit is of foremost importance. The EPA budget, while very large, it's my understanding has not grown in real dollars in the past 14 years, despite growth in responsibilities.

I would like to work with this committee, the budget committee, the authorizing committees, to do everything we can to resolve the waste issues, to make the agency more efficient, to bring management skills to bear that would allow the agency to become more efficient.

Senator FAIRCLOTH. The agency's budget has grown by 22 percent in the last four years. But over the period of years that you refer to, you're right, that it hasn't. But in the last four years it's grown by 22 percent. Not to single out EPA, but as we go through the process we're going to see every agency say "Somebody else, not us."

And yet President-Elect Clinton has pledged, and certainly all of those people running for the House and Senate have pledged, a reduction. We're going to have to bite the bullet and do it. I don't mean to single out EPA, but we're simply going to have to eliminate excess government where we can find it.

Thank you.

Senator BAUCUS. Thank you, Senator.

Senator Kempthorne.

Senator KEMPTHORNE. Thank you, Mr. Chairman.

Ms. Browner, how do you intend to deal with regulations and over-regulations, and what about what I will call the cookie cutter approach that regardless of local conditions, geography, innovation, that everyone must do it the same Federal way? We certainly would agree that Florida and Idaho are quite different. Will you build in flexibility in compliance?

Ms. BROWNER. Absolutely. I think you raise a problem that I am very well aware of, having been as the head of the State DER re-

sponsible for running a large number of EPA programs, also having been in essence regulated by EPA. I have sort of been in the middle.

I think there are many things that need to be done. We need to give a great deal of recognition to those States who have taken the time to develop comprehensive environmental programs. We need to respect what they understand about their State. We need to allow that information to come into the decision making process.

Senator KEMPTHORNE. And at the local level you would allow flexibility so that local conditions, geography, innovation, can be considered?

Ms. BROWNER. We have certainly done that in Florida. We have taken into account the fact that South Florida is one geological formation and North Florida is another.

Senator KEMPTHORNE. Referencing back again to the quote of yours which I read, concerning financial resources there in the State of Florida, and in fact some of the people who have been very supportive of you, were sorry that you did not have more financial resources in Florida, because they felt you would have accomplished more. So with regard to unfunded Federal mandates, would you support legislation that would require that Federal funds to State and local governments must be included with the Federal mandate or it cannot be required?

Ms. BROWNER. We have a law of that nature in Florida. The State cannot mandate to local governments unless they provide funding for those State-mandated activities. I think this is a complicated issue. I don't think there is necessarily a simple answer. There are many things we require that have benefit beyond the local community. There are others that are required that have more isolated benefits.

I appreciate the issue that you raise, and would like to work with this committee on that very issue. I think it is a very important issue.

Senator KEMPTHORNE. So in the State of Florida, though, you do have that requirement?

Ms. BROWNER. Yes.

Senator KEMPTHORNE. And are you supportive of that in the State of Florida?

Ms. BROWNER. It doesn't extend to all environmental programs in Florida. It extends to some of them but not to all of them and it has worked well.

Senator KEMPTHORNE. Thank you.

Technology allows us to now measure and achieve, in certain categories, parts per billion. Just because we can achieve these measurements scientifically, is it always cost-justified? So how do you deal with, and how would you recommend that we deal with, that cost benefit relationship when we talk about establishing standards?

Ms. BROWNER. I think that cost benefit analysis should be part of the rulemaking process, that is, a component that needs to be looked at. We are required in Florida on every environmental rule that we propose to include an economic analysis of the cost benefit, and have found it to be useful.

Senator KEMPTHORNE. Good. I appreciate that.



With regard to wetlands, which is a very important issue, how would you assist in resolving the wetlands issue, and also, would you be an absolute advocate for private property rights in that resolution of the wetlands issue?

Ms. BROWNER. I am very proud of my record in Florida on wetlands. I believe we have been able to protect our wetlands, yet allow businesses to develop their property, their personal property, as they see fit. We have moved beyond, as Governor Chiles said, creation of sites into ecosystem restoration and preservation. This is a complicated issue, one that I would hope I would be able to work with the committee on to resolve. But I do think that my experience in Florida will be helpful in those discussions.

Senator KEMPTHORNE. You used the term "a revolution of imagination." And I would certainly encourage you to bring that into the EPA. I know how proud your parents are of you and where that philosophy comes from. But we need imagination and innovation to bring about solutions, instead of this confrontation between government and its citizens.

Thank you.

Ms. BROWNER. Thank you, Senator.

Senator BAUCUS. Thank you very much, Senator.

Next, Senator Lautenberg.

Senator LAUTENBERG. Thank you very much, Mr. Chairman.

I want to respond in the couple of minutes I have to an observation put forward by my colleague, Senator Chafee in terms of safe drinking water. He and I did work to try and reduce the burden on some of the smaller communities. One of the things that I tried to do here in this committee last August was to bring a comprehensive review of the Act to the whole Congress, and to include, concern for the serious financial burdens under the Act. I hope that we're going to be able to do that.

In terms of Superfund, there isn't anybody involved in environmental protection who isn't familiar with Superfund. And it's fair to say that problems have existed. As a matter of fact, even EPA directly recognized the problems in a report that they submitted to the President, talking about the material weaknesses.

So that while we have problems, we also have made, as I indicated in my remarks, some significant progress in terms of identifying the site, getting the initial or full remedial action into place. I would ask you, as you reviewed Superfund from your position in Florida, from your experience here, what kind of a grade would you give Superfund on a scale of one to ten as a program, generally?

Ms. BROWNER. If I could answer that question from my perspective in Florida, where we also have a number of Superfund sites, it has not been as successful a program, I think, as many thought when it was originally adopted. We in Florida have not been able to clean up as many sites as I think we would like to have cleaned up by now. I think on a scale of one to ten, a seven.

Senator LAUTENBERG. Okay. That's a good jumping off point. Because seven is a passing grade in any school. Now all we have to do is improve the quality.

In a couple of areas, our fundamental fiscal management within Superfund, and you have seen the GAO reports, and you have

again, I'm sure, followed it very closely, because it had a direct effect on your work also, dismal management of contractor or subcontractor performance, things get away. It's not uncommon in Government, lots of departments, including, of course, our largest one, that is Defense.

Have you had the chance to think about what you might do to improve A, the fiscal management, B, the contractor supervision programs?

Ms. BROWNER. I think the contractor issue raises an extremely important one, and one that I would hope to immediately address. It would seem from what I understand is that it's one that could be resolved, and one that absolutely needs to be resolved.

Senator LAUTENBERG. Nothing specific yet to dealing with those two important issues.

Have you had a chance yet to lay out any programmatic themes that you intend to follow?

Ms. BROWNER. I think the other issue with Superfund is there are a number of very significant parts—

Senator LAUTENBERG. I'm sorry, about EPA—okay.

Ms. BROWNER. And I think in developing any solutions to the problems that we're all aware of in the Superfund program, it's going to be very important that we bring all parties to the table and try and perhaps set aside some of our past differences. We need to bring the community, we need to bring the Senate, the House, the regulatory agency, perhaps State agencies, and the business community. And we need to have an open and honest conversation about the future of the program and the solution to the problems.

Senator LAUTENBERG. One of the things that came up in this discussion, was the Clean Water Act. I mentioned the fact that there was about \$100 billion worth of need in terms of sewage treatment investment. We have a revolving fund due to expire. It's unfortunately woefully short of the requirements.

Have you thought about a way to get the program funded, to expand the funding levels? Have you any ideas that you can give us now on how you intend to improve the Clean Water Act?

Ms. BROWNER. Senator, I don't feel comfortable at this point in time discussing specific funding issues, but would look forward to working with the committee on the development of those, and I'm sure the Administration, OMB, etc., will also have a role to play in those conversations.

Senator LAUTENBERG. Mr. Chairman, I would ask a question related the housekeeping you mentioned. You said the deadline for submitting questions would be 5:00 o'clock today.

Senator BAUCUS. Five o'clock, that's correct.

Senator LAUTENBERG. Is that—

Senator BAUCUS. For members of the committee.

Senator LAUTENBERG. Yes. Because that seems like a little bit of short time, and if we could extend it a day, give us a chance to review some things.

Senator BAUCUS. I understand, Senator. That's the standard Senate practice on these hearings of this kind. If you at all could, I would urge you to try get your questions ready by 5:00 o'clock.

Senator LAUTENBERG. Thank you very much, Ms. Browner.

Ms. BROWNER. Thank you, Senator.

Senator BAUCUS. Next on my list is Senator Durenberger.

Senator DURENBERGER. Mr. Chairman, Ms. Browner.

Let me begin with two matters. I have two letters that I am going to deliver to you this morning. One has already been referred to, not as a letter but as a subject, the Safe Drinking Water Act.

You are obviously familiar with the fact that the implementation of the Safe Drinking Water Act is bogged down for a variety of reasons, one of which is not that there hasn't been sufficient flexibility built into the law itself. The problem seems to be that at the State level, where we hope it's going to be implemented, the flexibility can't be utilized because States are making, in short cash times, decisions about resources that disadvantage local governments.

One of these letters is signed by everybody imaginable who has anything to do with the local implementation of the Safe Drinking Water Act. I would like to submit that to you, and ask that you give it your thought as though you are addressing their concerns in terms of our responsibility to finance the implementation of the flexibility that we would like local governments to have.

[The letter referred to follows:]

62-722

FEB 19 1993

1 attch. page.  
Del 2-23-93

ST-41

January 8, 1993

The Honorable Bill Clinton  
President-Elect  
Executive Office of the President  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear President-Elect Clinton:

Safe drinking water is a fundamental right of every American. That right is now threatened, however, due to severe budget shortfalls for state and local drinking water programs, EPA, and public water systems. To address these severe fiscal constraints, a unique coalition of state and local regulators, industry representatives, rural development groups, environmentalists, and citizen groups has united to ask that you support the provision of funds necessary to ensure safe drinking water in this country through the FY-94 appropriations process. The shortfalls have now reached crisis proportions and the situation is urgent.

\*\*\*\*\*

Whenever a person turns on a drinking water faucet in this country, that moment represents perhaps the most intimate connection between public trust and the government's duty to protect the public health of its citizens. Unlike any other day-to-day government activity, the provision of drinking water has a direct and immediate effect on the well-being of every citizen. It was in this spirit that Congress passed the Safe Drinking Water Act (SDWA) in 1974.

The 1986 Amendments to the SDWA added to these requirements. The Amendments require the regulation of 83 contaminants, plus 25 additional contaminants every three years, disinfection and filtration of surface water, and disinfection of groundwater. The regulations promulgated under the SDWA cover approximately 204,000 public water systems and impact 219 million people nationwide.

The health impact of the SDWA regulations is significant. A recent report entitled *Estimates of the Total Benefits and Total Costs Associated with Implementation of the 1986 Amendments to the Safe Drinking Water Act* indicates that the aggregate health effects for all rules except for the disinfectants/disinfection by-products includes 178 cases of cancer avoided each year; over 200,000 cases of waterborne disease avoided annually; 226,000 persons having reduced exposure to cadmium; and 138 million persons estimated to have reduced exposure to lead. The latest estimates for lead also indicate that the decrease in exposure will lead to the reduction of 630,000 cases of hypertension.

The provision of safe drinking water is in question, however. State costs to implement the Act and water system compliance costs have created a crisis situation. In FY-92, the cost of the program exceeded \$138 million with the states contributing almost \$88 million (64 percent) and EPA contributing about \$49.95 million (36 percent) through state grants. These numbers are in stark contrast to the FY-93 budget of \$58.95 million for state grants. In fact, EPA estimates that state implementation costs will be \$400 million by 1995. Estimates for water system costs are \$7 billion per year (this does not include needed infrastructure improvements). EPA costs will also significantly increase in the areas of research and development, data management, and implementation and enforcement.

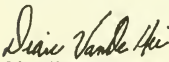
State and local governments, however, are not in a position to shoulder a substantially increased percentage of these regulatory costs. Last year over 33 states experienced severe budget deficits resulting in across-the-board budget cuts, furloughs, and reduction of drinking water staff. This comes at a time when EPA is threatening to withdraw primacy from states that are not capable of fully meeting the requirements of the SDWA.

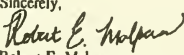
We respectfully ask that you consider:

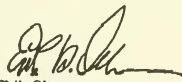
- \* Increasing appropriations for the Public Water System Supervision (PWSS) Grant Program to \$100 million for FY-94;
- \* increasing the EPA budget for drinking water research and development by \$3 million, targeted towards drinking water health effects research (in addition to water research dollars that may be requested by other organizations);
- \* increasing appropriations for EPA salaries and expenses for the drinking water program by \$25 million; and
- \* providing an additional \$5 million for the management of drinking water monitoring data.

While we recognize that the funds requested will not meet the complete needs of the program, we feel that the Administration's commitment is essential to show the public that safe drinking water is indeed a basic right of every citizen in this country.

We thank you for the opportunity to share these views and we hope that you will seriously consider the importance of safe drinking water in this country as you prepare your budget for FY-94.

  
Diane VanDe Hei  
Executive Director  
Association of Metropolitan  
Water Agencies

Sincerely,  
  
Robert E. Malpass  
President  
Association of State Drinking  
Water Administrators

  
Erik Olson  
Senior Attorney  
Natural Resources  
Defense Council



*John H. Sullivan*

John H. Sullivan  
Deputy Executive Director  
American Water Works  
Association

*Velma Smith*

Velma Smith  
Director  
Groundwater Project  
Friends of the Earth

*Richard Sahli*

Richard Sahli  
Executive Director  
Ohio Environmental  
Council

*Kathleen M. Stanley*

Kathleen M. Stanley  
Executive Director  
Rural Community Assistance  
Program

*James B. Groff*

James B. Groff  
Executive Director  
National Association of  
Water Companies

*Hugh Espey*

Hugh Espey  
Farm Projects Director  
Iowa Citizens for  
Community Involvement

*George K. Degnon*

George K. Degnon  
Executive Vice President  
Association of State and  
Territorial Health Officials

*Joseph F. Harrison*

Joseph Harrison  
Technical Director  
Water Quality Association

*Donna M. Cirolia*

Donna Cirolia  
Manager, Industry  
and Government Relations  
Culligan International  
Company

*Betty Ewing*

Betty Ewing  
Mississippi Executive Director  
Gulf Coast Tenants Association

*Norris McDonald*

Norris McDonald  
President  
Center for Environment,  
Commerce & Energy

*Philip Clapp*

Philip Clapp  
National Program Director  
Clean Water Action

*John Kabler*

John Kabler  
Southeast Regional Director  
Clean Water Action

*Susan Boyd*

Susan Boyd  
Executive Director  
Concern, Inc.

*William H. McBeath*

William H. McBeath, M.D.  
Executive Director  
American Public Health  
Association

*Olin Ivey*

Olin Ivey, Ph. D.  
Executive Director  
Georgia Environmental  
Organization

*Sandy Weston*

Sandy Weston  
President  
Fulton Safe Drinking Water  
Committee  
Environmental Concerns, Inc.

*Mark Rounsavall*

Mark Rounsavall  
Director  
Southern Rural Community  
Assistance Program

*Edward Hopkins*

Edward Hopkins  
Environmental Policy Director  
Ohio Citizen Action

Senator DURENBERGER. The second is a letter signed by most of the Great Lakes Senators, several Congressmen, and it deals with the Great Lakes issue, but one particular issue, the Environmental Protection Agency lab in Duluth, Minnesota. A month ago, a contract was canceled for irregularities. The people are on the shelf, in effect, the work is on the shelf. We're trying to get the contract, bring the people and the work back. We put \$10 million into an appropriation bill to do it, it hasn't been released, and I would hope that you will give that some serious consideration.

[The letter referred to follows:]



503 Hart Senate Office Building  
Washington, D.C. 20510  
(202) 224-4229

Great Lakes Task Force

Task Force Co-Chairmen  
Dave Durenberger  
John H. Glenn, Jr.

January 11, 1993

Honorable Carol Browner  
Administrator Designate  
Environmental Protection Agency  
c/o Presidential Transition Office  
1120 Vermont Ave., N.W.  
Washington, D.C. 20270

Dear Ms. Browner:

Congratulations on your nomination as Administrator of the Environmental Protection Agency (EPA). We anticipate a quick and successful confirmation. We are writing to highlight an issue of pressing importance that you will face upon assuming your new role as EPA Administrator: the need to promptly restore freshwater ecosystem and other research at EPA's Environmental Research Laboratory in Duluth, Minnesota, and its Large Lakes Research Station in Grosse Ile, Michigan.

Much of the vital and long-term research underway at these facilities was abruptly terminated last summer when 80 contract researchers lost their jobs in the context of an Inspector General review of EPA contracting practices. Long-anticipated research on the bioaccumulation of toxicants in Great Lakes fish, along with research in areas of national interest including dioxin contamination, climate change and wetlands protection has been seriously hampered.


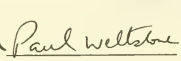
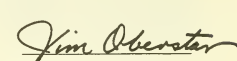
We do not wish to intervene in the on-going dispute between the Inspector General and the ASCI Corporation, nor do we wish to derail EPA efforts to revise its contracting policies. However, we are concerned that EPA move quickly to assure the prompt resumption of this vital research at these facilities.

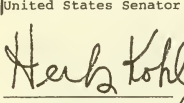
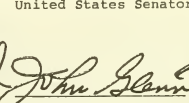
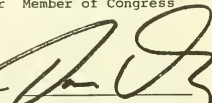
It was the intent of Congress in Fiscal Year 1993 appropriations legislation that funds be set aside to promptly resume the research. As of yet, little action has been taken to restore this research capability. We have already lost six months in research that is long overdue, now we fear that we will permanently lose our qualified scientists. Unemployment compensation for these valued workers runs out in March.

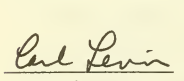
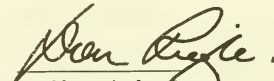
Our commitment to adequate positions within the EPA to support ecosystem-based efforts in the Great Lakes and elsewhere is long-standing. In 1991, fifteen Senators from the Northeast-Midwest region signed a letter initiated by the Great Lakes Task Force to Chairwoman Mikulski seeking more EPA full-time equivalents (FTE's) to help the agency successfully make the transition to an ecosystem-based program. Last year, many of us also fought to obtain better funding for EPA Salaries and Expenses to assure restoration of lost research capabilities in Duluth and elsewhere.

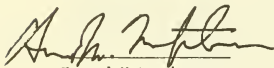
Research at the EPA's Environmental Research Laboratories provides the underpinnings of the EPA's current programs and the keys to unlock better environmental management practices of the future. We would be willing to provide you with any additional information on this matter of profound importance to the Great Lakes region and our national environmental protection effort. Our best wishes to you in your new office as EPA Administrator.

Sincerely,

    
 Dave Durenberger Paul Wellstone James L. Oberstar  
 United States Senator United States Senator Member of Congress

    
 Herb Kohl John Glenn David R. Obey  
 United States Senator United States Senator Member of Congress

   
 Carl Levin Donald W. Riegle, Jr.  
 United States Senator United States Senator

  
 Howard Metzenbaum  
 United States Senator



Senator DURENBERGER. Now I would like to discuss what's called a reformulated gasoline issue. And first I think, as you know, because it's been discussed with you, that the problem was created because of negotiated rulemaking, deals cut between special interests, the result was that a rule was proposed by the Environmental Protection Agency that would have excluded ethanol from the reformulated gasoline market.

President Bush, in early October, proposed changes but apparently we haven't seen those changes out of EPA as yet. They haven't made them to the Federal Register. So my question is, have you looked at it? Would you have any objection to putting it in the Federal Register as a supplemental proposal for comment?

Ms. BROWNER. I have not seen the changes or the underlying rule that the Senator makes reference to. We had a brief conversation about the issue in your office, and I certainly understand your concerns, and would look to work with you and the other members of the committee to see if we can resolve this. But I think it's a fairly complicated issue.

Senator DURENBERGER. Let me get at what's behind the issue. Ethanol is not the only problem with the reformulated gasoline rule. Last fall, we passed a Senate resolution stating that reformulated gasoline, the proposed rule, doesn't comply with the Clean Air Act. You support negotiated rulemaking, most people around here support negotiated rulemaking. But in the case of reformulated gasoline, what happened was a bunch of interest groups met with EPA and simply overlooked the provisions of the law that they found inconvenient. They cut a deal, so to speak.

The problem for us is you can't negotiate away the law. So I just ask you this question straight up. If you read the law, if you determine that it says there will be no NO<sub>x</sub>, nitrogen oxide, increase from reformulated gasoline, then you read the negotiated rule and you find that it will allow a NO<sub>x</sub> increase, could you in good conscience sign the Federal Register notice promulgating that rule?

Ms. BROWNER. Senator, and members of this committee, I will adhere to the laws that you pass. And if as Senator Durenberger suggests, then I could not in good conscience sign the rule to move it forward to the Federal Register.

Senator DURENBERGER. I appreciate the straightforwardness of that answer, and we have not rehearsed this ahead of time, let the record show that. I think your frankness is most appropriate, not only in this situation. If we want to make negotiated rulemaking work, and it should work, it has to recognize that the law as passed, particularly the Clean Air Act, which was such a unique negotiating process, will not always present each of the interest groups with what they want. And even when they get together and decide in a hotel ballroom somewhere what it is they can accommodate, it still is not the law. It is still not the process that we went through.

The bottom line point I guess is, the law is just more than a deal. And that is something that, whether we like it or not, we like the way it's made or not, that's something that needs to be respected, or we're going to have those 12, 16 years or whatever it is, of disagreement.

Senator BAUCUS. Thank you very much, Senator.

Senator Wofford.

Senator WOFFORD. Ms. Browner, I would like to add my strong concern about the test burn of WTI at East Liverpool to Senator Metzenbaum's concerns. That this should be happening in the last hours of this Administration's watch concerns me. I hope that you will, soon after taking charge, review this and cease actions until you have had a chance to review it.

Speaking of Senator Lautenberg's chosen first word today, garbage, and speaking of the experience of being on the receiving end, I want to call your attention to the fact that our State of Pennsylvania receives more municipal waste imports than any other State, over 3 million tons in 1990, 1991 and almost 4 million tons in 1992. We are taking aggressive steps to deal with our own trash. We have a recycling program that involves more communities and people than any other State, I think. We have the strongest possible standards of development and operations of landfills, and we have new regulations that require businesses generating over a ton of trash each year to submit waste disposal plans to the State.

Unfortunately, our neighbors have not been as aggressive in siting new facilities for their trash, and then on top of this, the economies of trash disposal makes it cheaper to send trash to our State. While our State wants no garbage war, and is not interested in an immediate, outright ban on interstate trash imports, our Governor and State Department of Environmental Resources believe that States ought to be asked to reach a point of self-sufficiency, and that imports should be frozen at 1991 levels, with eventual overall reductions.

Last year in this committee we passed a bill that made it through the Senate, only to have the House take no action, by legislation including an amendment that I pressed for which would have limited trash imports to the lower of 1990 or 1991 levels, and capped out of State waste at 30 percent for States that import over a million tons of waste a year. In addition, the amendment called for reductions by the end of the decade.

Based on your experience as an environmental administrator, shouldn't States be able to preserve their own land for their own municipal waste?

Ms. BROWNER. Senator, I come from a State that also receives garbage from other States. I think this is a very difficult issue. I think we have to look at comprehensive solutions to municipal solid waste. We have to increase our activities in terms of recycling and source reduction. We have to do everything we can to divert solid waste from incinerators, from our landfills.

Once we have done that, the issue you raised I think will be available to us in a way that will be more manageable, in a way that perhaps we can develop the relationships that we need as a country to effectively deal with the large amounts of garbage we are generating.

Senator WOFFORD. I hope you will look at that with great care.

Ms. BROWNER. Absolutely.

Senator WOFFORD. As to the Superfund, Pennsylvania has the second largest number of Superfund sites, now at over 100. As you know, the law requires that a health assessment occur to determine the effects of the site and the remediation plan on the envi-

ronment and surrounding communities. The Agency for Toxic Substances and Disease Registry is charged with performing this task. Yet we are hearing from concerned people all over our State that remediation plans are being decided often before the health assessments are completed. Will you work with that agency in order to ensure that health assessments are complete before the remediation plans are final?

Ms. BROWNER. If the law requires the remediation plans to be final, then we will certainly do everything in our power to make sure we do just that. That is what we are directed to do. I was not aware of this issue, but I will certainly look into it.

Senator WOFFORD. In my last seconds, I just want to second the concerns about the Safe Drinking Water Act and some of the requirements that are leading Pennsylvania to consider turning the responsibilities back to the Federal Government. We think very much that flexibility in that Act is crucial, that the States continue to carry those responsibilities.

Senator BAUCUS. Thank you very much, Senator.

Senator Warner.

Senator WARNER. Thank you, Mr. Chairman.

I was reassured by your opening statement in which you addressed this issue of balancing your responsibility to the environment together with the Nation's economy. And I thank you for that.

I mentioned incentives in my opening statement. They play a major role, in my judgment, in ensuring compliance or in accelerating cleanup of contaminated sites. I have in mind such incentives which would allow for a process for voluntary cleanups, Superfund sites, for incentives to stimulate voluntary waste reduction efforts, recycling, and alleviate the pressures on landfills.

What thoughts have you got for these incentives, and also, how do you feel about market based approaches for environmental protection, such as the allowance trading system under the Clean Air Act?

Ms. BROWNER. The allowance trading system under the Clean Air Act is something that we included in our State legislation in Florida in our proposal to the State legislature. And it was adopted by the State, by the legislature, and we are now beginning the implementation process.

You, Senator, raise an extremely good point about market incentives and about voluntary compliance. We developed a program in Florida relying on retired engineers. We have a lot of retirees in our State. We reached out to a community of retired engineers. We brought them into the agency on a voluntary basis, and we married them up with companies who were interested in trying to develop pollution prevention, source reduction strategies and technologies.

It's been incredibly successful, something that hopefully will continue in Florida, and something that perhaps we can look at on a national level, to really provide a backup to those companies who want to get out in front.

Senator WARNER. You're very proud of the Everglades. My State, Maryland, Delaware, Pennsylvania, are very proud of the Chesapeake Bay. Despite comments today that the EPA has been rudder-

less and adrift, we have made some progress, successive administrators of the EPA, in particular, your immediate predecessor.

But we come down to one really tough issue. And I think some new thinking has to be brought to bear on what we call non-point pollution, persons who are following time-honored traditions of farming and the use of land have got to be, I think perhaps through incentives, persuaded as to how to alleviate this. We don't have enough inspectors and regulators to run all over the farming areas and deal with this, but somehow we have got to encourage particularly the farmers. And believe me, if there is any group that loves the land, it is the farmers, because their livelihood and that of their families depend on it.

What can you point to in non-point pollution, particularly the Chesapeake Bay and how you propose to work with that?

Ms. BROWNER. I think you're exactly right, we have to reach out to, perhaps, groups that we have not historically worked with in terms of solving this problem. We have to work with them in their areas. We have to go out, see how they conduct their business. We have to bring people who speak their language and who understand what farming is about and how farming is conducted, what makes it economically viable.

Senator WARNER. Is there something in your experience to date that could be brought to bear on this tough nut, non-point pollution?

Ms. BROWNER. Non-point as it relates to agricultural?

Senator WARNER. Yes, and other sources, but primarily agriculture.

Ms. BROWNER. One of the things we have attempted to do in Florida relating to this issue is again to look at the receiving body as a system, and look at the balance of that system and the flora and fauna and that balance. And I think that that's important that you can make decisions in a vacuum, those decisions ultimately get applied to the Indian River Lagoon, to Tampa Bay in my State. So looking at the system and what it takes to protect that system and to rehabilitate that system can frequently offer guidance on what are the important non-point sources to be dealt with, what are the priorities for how you resolve those issues.

Senator WARNER. Clearly, the implementation of the 1989 Wetlands Manual created, I think, a great deal of confusion, particularly in my State. We have an extensive amount of wetlands. The staff was not sufficient, in our judgment, to respond in a timely fashion to the large number of permit applications. The criteria used to determine jurisdictional wetlands was not consistently applied, and in our judgment, lacked credibility.

For the past two years, Congress has directed that Federal agencies use—and you have mentioned this—the 1987 Wetlands Manual. What are your thoughts on this matter? Do you believe the 1987 Manual can serve as the foundation for a national wetlands policy? Do you believe in mitigation plans, or that wetlands can be created?

Ms. BROWNER. Two points. First, it is my understanding that there is a study that has been directed by Congress specifically relating to delineation methodology for wetlands. I think that study will be extremely important. It will be helpful in shaping the an-



swers in terms of the 1987 Manual versus the 1989 Manual versus revisions to the 1989 Manual.

The second question I believe you posed relates to creation of sites in exchange for damage to existing wetlands. While I believe that you can probably build an extremely good wetland, it has been our experience in Florida that the amount of resources needed to build, establish, and maintain that system are frankly resources better spent restoring and enhancing an already existing system. And we have tried to move in that direction in Florida, and have some tremendous successes.

Senator WARNER. This is my last question, blessed by a corps of editorialists. Dave Broder wrote, and I will quote his famous quote, "President Clinton let his super-environmentalist Vice President, Albert Gore," a man whom all of us respect greatly by the way, served with him, "put a protegee, Carol Browner, in as head of EPA, thus ensuring that one interest group would at least dominate its part of the bureaucracy."

I will give you an opportunity to answer that. What interest group is he referring to, and how do you propose to allow other voices to be heard in the EPA? In other words, not just the alarmist side, but a balanced approach to all voices.

Ms. BROWNER. Well, Senator, I don't know what special interests Mr. Broder refers to. I think if you look at my record in Florida, I have not been dictated to or driven by the alarmists, that we have had a policy of involving all of those not only affected by, but interested in the problem we seek to address. And I would certainly seek to continue that in this position if I should be confirmed.

Senator WARNER. I thank you.

Senator BAUCUS. Thank you very much, Senator.

Senator WARNER. You have my support.

Ms. BROWNER. Thank you, Senator.

Senator BAUCUS. Senator Smith.

Senator SMITH. Thank you, Mr. Chairman. Ms. Browner, let me go back to Superfund for a moment. In response to Senator Lautenberg, I think you gave a grade of seven out of one to ten. Where do you believe the major problem is? Would you say it's administrative or is it in the liabilities game?

Ms. BROWNER. Senator, again this is in my experience in Florida, with the responsibility for implementation of Superfund cleanups. I think in our State that the experience has been that the liability issue has been a difficult one to resolve, to allow us to move forward with cleanups, and that the administration of the program has been hard for us to understand.

Senator SMITH. Do you believe there is a basic fairness issue at stake here with regard to joint and several liability?

Ms. BROWNER. I think there is an issue in terms of past practices, and it is a serious issue.

Senator SMITH. We talked about this briefly in the conversation we had in my office, do you believe that EPA needs to reevaluate the level of cleanup necessary at each site, and would you agree that in some cases, containment, in the interest of priorities, might be a better solution?

Ms. BROWNER. There may be sites where containment could be the better solution. Whenever you clean up a Superfund site, there



is a disposal issue that is generally created. I think you have to look at again the entire cleanup plan for a particular site, a contamination plan, if that might be available, to determine what is the best way to proceed.

Senator SMITH. In going to another issue now, which is unfunded Federal mandates, President-Elect Clinton said in June before the Conference of Mayors that, just a brief quote, "I'm going to stop handing down mandates to you and regulating you to death, and not giving you the money to do it with."

What's your position on unfunded Federal mandates?

Ms. BROWNER. The burden that has been placed on local governments and State governments as we all know is extreme. It is something that we are going to have to deal with, and we are going to have to develop solutions. I certainly would look forward to working with the committee on that issue.

Senator SMITH. So there are times, then, when an unfunded Federal mandate might be a priority in terms of environmental regulation?

Ms. BROWNER. I think you have to look at the benefit to be derived, the extent of that benefit. I think this is a very hard question to answer in the abstract. As I mentioned, in Florida we do have a similar provision in our State law. It does not extend to all environmental requirements. It does extend to some.

Senator SMITH. When President-Elect Clinton nominated you, or announced your nomination on December 11th, one of the things he said was "Ms. Browner knows, as I know, what it is like to be governed by the EPA and 'how awful it can be'." Based on your experience in Florida, would you like to respond to that statement?

Ms. BROWNER. President-Elect Clinton and I have had several conversations about the very issue that you mentioned, Senator. The EPA, in working with State agencies, needs to give those State agencies clear direction, timely answers. It's really no different than what agencies need to give the business community, and some of the problems we encountered in Florida is the inability of the agency, of the EPA, to tell us ultimately what they wanted us to do. So we would think we had done what we were told to do, only to find out that perhaps it wasn't quite accurate. I think there is a need for clarity, for surety, for moving forward.

Senator SMITH. Thank you. Just one parting question. I have not seen your position on it anywhere, and if you have one, I would appreciate knowing it, your position on nuclear power in terms of industry, nuclear powerplants.

Ms. BROWNER. We do have nuclear facilities in Florida. President Clinton has suggested during the campaign that until we have dealt with the disposal issue, we need to move away from increased reliance on nuclear power. And I would share the concerns that were raised.

Senator SMITH. So you support, then, the current moratorium that exists on the construction of new plants?

Ms. BROWNER. I am concerned that the future—the construction of new plants without appropriate and adequate disposal can cause us some significant problems.

Senator SMITH. Thank you.

Senator BAUCUS. Thank you very much, Senator.

Senator Lieberman.

Senator LIEBERMAN. Thank you, Mr. Chairman.

Ms. Browner, I want to talk to you a little bit about clean water. I know coming from Florida you share this interest. In Connecticut, we are particularly interested in clean water, because of the concern about reviving and protecting Long Island Sound. In that sense, we're very supportive of the National Estuaries Program, which has also been a benefit to Florida.

So I want to ask you a few questions about that. The first has to do with the Clean Water Act. During the last session of Congress, this committee spent a fair amount of time in hearings on the Clean Water Act reauthorization, and consideration of the reauthorization. But there was never a clear expression of support from the Bush Administration for that reauthorization. So my first question is, can we expect that the Clinton Administration will support a reauthorization, during this session of Congress, of the Clean Water Act?

Ms. BROWNER. President-Elect Clinton has indicated his interest in seeing the Clean Water Act reauthorized. We would look to work with the Chairman in developing the committee's agenda.

Senator LIEBERMAN. I appreciate that answer, and that's an encouraging one.

Secondly, going back to my local situation in Long Island Sound, which is an example and typical of many similar situations, the National Estuary Program has been part of or encouraged studies throughout the country, management studies, of these much-cherished bodies of water. But often there haven't been enough resources to implement those studies.

In the case of Long Island Sound, the comprehensive conservation and management plan is out in its initial form, a draft form, but it's pretty clear that the major problem we have is inadequately treated sewage. And the costs just for Connecticut could run as high as \$2 billion, and our friends next door in New York may have a cost of as much as \$6 billion, perhaps more, I think I should say as little as \$6 billion and probably more, to clean up their sewage treatment facilities.

Obviously we are in a time of limited resources, but it seems to be me that one of the most cost-effective programs here has been the State revolving which has been used for sewage treatment upgrade. Currently, at about \$2.5 billion, a group of us on this committee in the Senate last year sought to have it doubled to \$5 billion and have the expiration date of 1994 eliminated.

Would you support an increase in the funding for the State revolving funds?

Ms. BROWNER. Senator, in Florida my agency manages the State revolving loan fund. We have the experience, very much as you stated—it's been a very successful program.

I can certainly see the need for the extension. We still have lots of systems that are not at the status that perhaps we would like. I think that this issue is one that deserves serious attention in the budget process and would look to working within the Administration to raise this issue.

Senator LIEBERMAN. Okay. We will continue to dialogue and push on this one. I understand that you can't go beyond that at this point.

I'd like to talk about a very different subject, as we have all said, the reports in the press are not necessarily accurate, but there have been reports in the press that the incoming Administration is moving in the direction of a carbon or gasoline tax, perhaps as a source of revenue, but presumably also as a source of environmental protection or reduction of pollution. And I want to ask or express the hope that this not be done precipitously. Obviously gas or carbon taxes will raise money.

But I'm skeptical about how effective they are as pollution reducers, and would commend for your review some of the studies that have been done, particularly by the Environmental Defense Fund, which show that even a 10 percent increase in the price of gasoline, which would be really a doubling of the Federal gas tax, would only bring about a 1 percent reduction in gasoline consumption, whereas a system of tradable permits or a structured program of offsets really can offer clear assurances of environmental benefits.

So my question is whether as Administrator of EPA you will be committed to a comprehensive consideration of the various approaches, not just the tax approach, to carbon dioxide reduction and pollution reduction generally.

Ms. BROWNER. I am certainly committed to the comprehensive approach to solving these problems. I appreciate your concerns.

Senator LIEBERMAN. Are you familiar with any of the studies that EDF has done on the impact of offset permits, offset offers or tradable permits?

Ms. BROWNER. Yes, I am familiar with EDF's work. That was available during the Clean Air Act debate.

Senator LIEBERMAN. By way of general statement, what do you think of it?

Ms. BROWNER. The idea of the credit trading allowing programs, I am supportive of those programs. We are implementing the Clean Air program in Florida.

Senator LIEBERMAN. Thank you. My time is up.

Senator BAUCUS. Thank you very much, Senator Lieberman.

Senator Boxer.

Senator BOXER. Thank you, Mr. Chairman.

Ms. Browner, I want to talk to you about another not too pleasant subject, I don't blame you for not wanting to, but it's hazardous spills. It seems to me anywhere in America you could wake up in any State, turn on the radio and find out something's been spilled on the roadway, what is it, what do you do, what do the workers do, what protections do they need, do we have to evacuate communities.

In California, and as Senator Moynihan said to me, he said "Senator, I hope you get on this committee, because California is half the country." It's not quite there, but the fact is, if anything happens, it's going to happen there. In 1991, we had a terrible spill, a Southern Pacific railroad car spilled a toxic substance called meta-sodium into the Sacramento River, 19,000 gallons spilled. And 200,000 fish were killed, the environment was poisoned, people were evacuated, hundreds of people went to the hospital.

We had a hearing on the House side. And what we learned, and by the way, we only learned this because there were some very sharp people in the State that dug this out, that EPA had received a report from the manufacturer of metasodium stating that in fact this was a very dangerous substance, that there could be terrible impacts, including birth defects, and that EPA admitted at the hearing that they had put these studies on the shelf, that in fact there were 36 studies on 20 chemicals that were put on the shelf, even though the manufacturer had red-flagged those studies.

So here you have a case where the manufacturers are doing their job, they are telling EPA, and these studies go on the shelf. We have a metasodium spill, and the fact is, the product was not carried in the proper fashion, and people were really hurt. So we could argue, and I know the committee doesn't want to get into that, was this something the EPA deliberately did, or was it an oversight. And I don't think we have to get into that.

The fact is, they admitted that these studies were put on the shelf. So I want to ask you if you have given any thought to the whole issue of the toxicity of these chemicals and how you could better coordinate with the private sector, with other agencies, with the Department of Transportation, to ensure that our people don't go through what this whole little town did near Sacramento.

Ms. BROWNER. Senator, I really do understand the issue you raise. We have also had some spills in Florida.

I think you used the word coordination. And that's really I think ultimately where a great part of the solution lies. You have an agency, whether it be a Federal agency not knowing what another Federal agency is doing, or a Federal agency not knowing what a State agency is doing. There is a great deal of information collected about these sorts of chemicals. We need to make that available in an appropriate manner so that when we are transporting these, they will be transported in accordance with what the manufacturer has suggested is the appropriate method of transportation.

Senator BOXER. I hope you will give this special attention, because the fact is, these studies do us no good, if they are put on a shelf.

Let me talk to you about another issue that was of great interest to Senator Gore and Representative John Lewis when they introduced the Environmental Justice Act. What we're finding, and there is an article in today's New York Times about this, is that very often low income communities and minority communities bear a disproportionate share of the Nation's heavily polluting industrial plants and waste disposal facilities. Sometimes these communities are really not able to mobilize as wealthier communities can. It's a little bit akin to the global problem of, as we move to a global marketplace, dumping the waste in the very undeveloped nations.

So I wonder if you have given any thought as to how we can help these communities. Is there something specific that EPA could do in this regard?

Ms. BROWNER. The issue that you raise is related to siting in general of facilities. What our experience in Florida has taught us, even for those facilities that are sometimes referred to as NIMBYs, that the more we can involve the local community on the front end of the siting and permitting decisions, the better they understand



the facility, the better able they are to make a decision whether that is something appropriate for their community. I think public notice and public involvement early in the process can go a long way towards dealing with the issues that you raise.

Senator BOXER. And I also think at the start being aware that sometimes these communities get a disproportionate share is a very important point.

I have one more question, and that has to do with a community's right to know.

I believe that in America people should have a fundamental right to know about the toxic chemicals used and emitted by facilities in their neighborhoods. I know in this committee we have some very strong people here, Senators Lautenberg and Durenberger and the now-Chairman of this committee and Senator Lieberman all worked on S. 976, Senator Baucus' Resource Conservation and Recovery Act. I think the communities need to know more, not less. I wonder what your views are as to the rights of people living in communities in which they may be breathing harmful chemicals and they don't know it.

Ms. BROWNER. I share your concern that communities have a right to know. Obviously, that has to be balanced against any trade secret issues that may be relevant. But communities have a right to know what is happening in their community.

Senator BOXER. Could you expand on that trade secret?

Ms. BROWNER. This is an issue that has come up in Florida on occasion, where particular manufacturers feel like that to make something available, information available to the public, might have a detrimental impact on the development of a product or the denatured components of a product. I think there is a way to both meet the concerns of business and the communities' right to know.

Senator BOXER. I would hope so. Thank you very much.

Senator BAUCUS. Thank you very much, Senator.

I would like to consult now with members of the committee. I have a couple more questions, and I think it would be appropriate to continue. I suspect that there are not many more questions left of the committee, that it's more appropriate to continue now rather than breaking and come back at a later time. I think I will just call on each of us to be somewhat brief in our questions.

Ms. Browner, I would like to take advantage of your prior experience, both working for the United States Senate in various capacities, and also as the chief environmental administrator in the State of Florida, to basically explore the relationship between the Federal Government and the State government.

As you well know some of the States with more progressive environmental statutes are very upset with EPA. I think in many cases justifiably. That is, they feel that the EPA does excessively bean count. There is too much overlapping, too much redundancy, too much dotting of the I's and crossing of the T's all over again.

Yet on the other hand, it is true that because some States have more progressive environmental laws than some other States, the EPA justifiably is concerned about those States that do not have sound, strong environmental programs.



How would you characterize the present relationship and what would your ideas be to change it? More specifically than you have been able to state thus far.

Ms. BROWNER. I think where you have a State that has taken the time to develop a comprehensive environmental program, has funded that program, has a track record in implementing that program, that EPA needs to respect that, and needs to respect that that State is probably best suited to understand the differences within its State, to understand the nuances of its local governments, and that EPA should, as much as possible, allow States who do have the resources and the commitment, to play the leading role within their State.

Senator BAUCUS. Would you delegate more to those States that seem to generally have a more progressive, broader—

Ms. BROWNER. Yes, I think that would be appropriate.

Senator BAUCUS. What about those States that don't have the resources?

Ms. BROWNER. I think EPA should work with those States to assist them in the development of their programs, to provide them with guidance and—

Senator BAUCUS. More guidance, more technical guidance?

Ms. BROWNER. Yes.

Senator BAUCUS. So the States themselves, pursuant to delegated authority to them, can do it. Does that concern you, on the other hand? What's your response going to be to the environmental community that's going to come back and say "You have delegated all this to the States, they're not doing a very good job"?

Ms. BROWNER. Well, I think that because Congress places in EPA the responsibility for a program, and EPA decides to delegate that program, EPA does retain a statutory responsibility for making sure that that program is implemented in a manner consistent with the Congressional mandates. So EPA does have an oversight role.

Senator BAUCUS. If you could be a little more specific with respect to the concerns of Senator Warner, and I think Senator Moynihan and others, stated that those are the concerns probably of each of us on the committee, as well as probably each Senator serving today. It is certainly true in my case, in the State of Montana, that small communities feel they cannot, under the Safe Drinking Water Act, meet the demands of the statute or get the waivers that they are looking for. It's a recurrent problem. What do you intend to do about it?

Ms. BROWNER. Well, I think it's an extremely important problem, and one that I have had first-hand experience with. It would be my hope that in working with the regional offices of EPA, we can expedite the waiver or variance requirements so that local communities will not find themselves in a position of accruing \$25,000 a day penalties. We would much rather see that money go into the upgrading of the system—a much better use of taxpayer dollars.

Senator BAUCUS. I appreciate that. As you well know, you have a tremendously difficult task ahead of you in changing some of this momentum. There is vested interest within the EPA to continue command and control, if you will, of bean counting and i dotting and t crossing. In addition, there is a vested interest among many

of the lobbyists in this town to continue some of the same kinds of approaches, because after all, that's their life blood.

So I strongly urge you to exercise every ounce of energy at your command to address this in a sound way. Because after all, it's the people outside the Beltway whom we are serving. We are all public servants. They are all our employers. And I urge you to exercise that energy, and I wish you the very best of luck, and pledge our cooperation, the committee's cooperation, in working with you.

Ms. BROWNER. Thank you, Mr. Chairman.

Senator CHAFEE. Ms. Browner, you said something that intrigued me, regarding the restoration of wetlands, so-called mitigation. We have had witnesses before this committee of whom I have asked, have you ever seen a successful restoration of a wetland. Everybody says they have heard about it from somebody else, but nobody's seen one.

Ms. BROWNER. Can I take you to Florida?

Senator CHAFEE. Well, I'm curious. Could you refer me to—sort of like infant baptism, they asked the preacher "Do you believe in infant baptism?" "Believe in it, I've seen it," he said. And that's the way I wonder about these restoration of wetlands.

You said it's impossible to create one, and I suppose by creation you meant starting cold, without a formal wetland. But then you said you have seen restoration. Could you let me know where I might follow through on that, because it's a subject I'm interest in. And you don't have to do it now, if there is a specific place and you're not sure exactly where it is. Do you have many of them in Florida?

Ms. BROWNER. We are lucky in Florida. We have a program called the SWIM program that has allowed us to restore a number of our wetlands. I can certainly provide you with a list.

In terms of creation, I absolutely believe the engineers and the scientists that it can work. What we have found in Florida is that it is not cost-effective, that the large amounts of money are better spent in restoration and enhancement.

Senator CHAFEE. Now the second question, completely different. The President-Elect has talked about, in connection with the NAFTA Agreement, side agreements in connection with the environment. And I'm just not quite sure what he's talking about. He's talked about it in connection with free training, but let's set that aside.

As far as the environment, I'm not even sure how that would proceed. Would it be that each country would commit itself to X dollars to clean up the Rio Grande, or certain amounts of efforts? Are you at all familiar with the trend of thought on this matter?

Ms. BROWNER. Senator, it is not something that I have yet focused on. I don't really feel comfortable discussing it in the detail that I think perhaps you would like to discuss. But I certainly would welcome any advice or recommendations you would have in how such an agreement might be structured.

Senator CHAFEE. Well, that's a deft tuning of the "don't encourage."

[Laughter.]

Senator CHAFEE. I tell you, I'm not very helpful here, because I'm not quite sure how one would do it. I think you would get into

a lot of trouble if you said each country agreed that the other country couldn't change its laws in connection with the environment to weaken them. Then you've got Country A telling Country B what to do on an internal matter.

In this country, for example, we're constantly looking at the Endangered Species Act. I would find it a little awkward if that was encased in concrete and if we wanted to change it, as some suggest, and perhaps to weaken it, that Mexico could say no, you can't do that.

Senator Dole asked me to submit some questions. I'm going to ask one here that intrigued me. In Florida you supported—this is a statement which I assume you can correct if it's inaccurate—in Florida you supported a two-year moratorium on new powerplants that generate electricity by burning trash. Do you support a national moratorium on such facilities? If so, what about hazardous waste incineration plants or biomedical waste incineration plants? Could you briefly answer that?

Ms. BROWNER. When Governor Chiles and I assumed our responsibilities in Florida, there were nine facilities on line that burned municipal solid waste. There were three more in the works. Florida now burns more municipal waste than any other State in the country, with the exception of New York.

What has happened, as many of you probably understand, is that our local governments have been unable to reach some agreements for the use of those facilities. And so in four of our facilities in Florida, we now have excess capacity. We are building new landfills rather than using the excess capacity, rather than using the resources available to us to their best use.

So when Governor Chiles and I suggested the idea of stopping the permitting process for two years, so that we could seek to build those relationships between local governments to most efficiently use the facilities that were already built and operating or under construction—

Senator CHAFEE. So your moratorium was based, not on an opposition to the generating of electricity, but rather because of the use factor that you had run into in Florida?

Ms. BROWNER. Because of the particular situation we found in Florida, that is correct.

Senator CHAFEE. Thank you very much.

Senator BAUCUS. Thank you very much, Senator.

Senator Moynihan.

Senator MOYNIHAN. Ms. Browner, to follow up Senator Chafee's question about wetlands, as I'm sure you know, ours is a committee on environment and public works. And public works extends to water resources, and thanks very much to Senator Chafee after a 15-year interval, we resumed a regular biannual water resources bill. This last bill included the Kissimmee River project, which Senator Graham would speak about, and you know about of course, which is to restore the Everglades as a wetlands. I suppose the case can be made that when something is as recent as this ecologically, 40 years ago, you can hope to get back. We will learn a lot from that, won't we?

Ms. BROWNER. Yes, Senator. In fact, one of the oxbows has now been restored, the water has been forced back into the historical flood plain, and we are getting a great deal of success from that.

Senator MOYNIHAN. We'll just see how it goes.

I've just one specific question. On the Clean Air Act, acid rain was a major issue, and the whole question of sulfur oxides and nitrogen oxide emissions, acidic lakes. Now, all the lakes in Florida are acidified, but that's ecology. In that legislation, we began with the largest environmental science enterprise in history on the subject, which was the National Acid Precipitation Program, 10 years and half a billion dollars. In the main, from the Administration side and all sides, people preferred to know as little about those findings as possible.

I asked, and we wrote into the legislation, given that situation, that there be a benefit cost analysis of the reduction of the sulfur and nitrogen oxides, and that just to keep it simple for those who don't follow the higher mathematics, that there be a registry of acidified lakes, and we see how many go on and how many come off. As far as I'm aware, nothing has been done in EPA. I don't ask that you confirm that, but I tell you that's my impression.

Can I hope that in the spirit that you responded, I think to Senator Durenberger, that "If it is the law, I will see that it is obeyed and pursued"? It is an effort to learn, not an effort to punish anyone, but to find out what we're getting for what will be a huge expenditure. Would you want to say a word about that?

Ms. BROWNER. Certainly, Senator Moynihan, if that is the law, then I will do everything I can to make sure that the agency complies with the law.

Senator MOYNIHAN. May I assure you that it is the law.

[Laughter.]

Ms. BROWNER. Thank you.

Senator MOYNIHAN. Thank you, and great luck to you.

Ms. BROWNER. Thank you.

Senator BAUCUS. Senator Faircloth.

Senator FAIRCLOTH. Thank you.

I have one question that was brought to my attention by Senator Warner, and that is, the 1987 wetlands law and the 1989 wetlands law. As you well know, North Carolina has an enormous amount of wetlands, and the 1989 law encompassed a major portion of our State as wetlands, moving way into the piedmont.

Would you care to express a preference or an idea on the 1989-1987 wetlands law, and would you say the 1987 wetlands law was sufficient, and the 1989 law was not necessary?

Ms. BROWNER. Senator, my understanding is that as of several weeks ago, EPA has indicated that it will now adhere to the 1987 manual, bringing it in line with the Army Corps of Engineers. So the 1989 manual and the suggested revisions to that have been set aside. We'll have the Federal Government—if my understanding is correct—relying on the 1987 manual, and the study that Congress has directed. I believe, the National Academy of Sciences to prepare will come forward, hopefully, with recommendations as it relates to delineation methodology. And I certainly think that study will be extremely useful in resolving whatever questions may be remaining.



Senator FAIRCLOTH. But right now, we are operating under the 1987 law.

Ms. BROWNER. Under the 1987 manual. That is my understanding of where the situation is right now, as opposed to the split we had had previously between 1987 and 1989.

Senator FAIRCLOTH. Thank you.

Senator BAUCUS. Thank you, Senator.

Senator Kempthorne.

Senator KEMPTHORNE. Thank you, Mr. Chairman.

Ms. Browner, would you just state for me your philosophy regarding private property rights?

Ms. BROWNER. In Florida, we have perhaps one of the most environmentally protective wetlands programs. To date, we have only experienced only one takings claim against the State. I don't know the status of that. I think that's an important fact, because I think we have been able to implement a program that provides protection for the very best of our wetlands systems that are left in Florida, yet allow for individuals to appropriately and with economical benefit, develop their property.

So I think you can resolve this issue, and it's certainly one that I look forward to working with the committee on.

Senator KEMPTHORNE. And you are an advocate therefore that we must be staunch defenders of private property rights?

Ms. BROWNER. I think we must also defend our environment and the systems that are important for future generations.

Senator KEMPTHORNE. A specific example. In the State of Idaho, there is a problem that exists in how to resolve the issue of man-made wetlands caused by leaking irrigation systems. We have one Federal agency that tells our farmers that they must repair faulty systems to conserve precious water, and indeed it is precious, we are in the seventh year of a drought. But at the same time, EPA regulations prohibit eliminating any water source to a wetland.

So as you can imagine, our farmers in Idaho have a whipsaw effect between two agencies. How would you propose to resolve this type of a conflict?

Ms. BROWNER. Senator, I'm not familiar with the situation in Idaho. It's one that I'm certainly willing to take a look at and discuss with you. I presume you're referring to when, because of previous alterations you create a system that becomes jurisdictional under the existing law. It is something we have dealt with in Florida, and I apologize for not being familiar with it in your State.

Senator KEMPTHORNE. I appreciate that.

You have stated your view that speeding up the process by which EPA makes rulings on incineration, wetlands, water pollution, etc., would be one of your top priorities, and I commend you for that. Vice President-Elect Gore has stated his firm opposition to hazardous waste incinerators, for example. Considering the fact EPA has approved incineration at a number of Superfund sites, do you feel compensation should be made to entities which have already begun building incinerators at these facilities if they are not allowed to operate?

Ms. BROWNER. Senator, if my understanding of existing law is correct, those incinerators may be, if they meet the letter of the law, permissible, and that is what the agency is responsible for



first determining. And if they find that the law has been complied with, then for issuing the permit, absent a change in the law.

Senator KEMPTHORNE. If there were a change, if those who had proceeded in good faith to build an incinerator now were not able to operate, do you feel they should be compensated for that?

Ms. BROWNER. When this issue came up in Florida, in our discussions, as Senator Chafee mentioned previously, we built a grandfather clause into the proposed legislation that would have allowed any facility in the permitting process to complete the process and to get a permit, if they met all of the conditions of rules and regulations. That was a solution that made sense for Florida. I think it's one that would have to be considered, that this body obviously would have to look at if it were to decide to pass a law such as the one you suggest.

Senator KEMPTHORNE. And a final question. If we were to use the term pro-business environmentalist, do you think that term makes sense, or is it an oxymoron?

Ms. BROWNER. I think it makes absolute sense. I think there are many pro-business environmentalists.

Senator KEMPTHORNE. I appreciate that. Thank you very much.

Senator BAUCUS. Thank you, Senator.

Senator Durenberger.

Senator DURENBERGER. Mr. Chairman, my impression is Steve Symms is still here, but the style is interestingly different.

[Laughter.]

Senator DURENBERGER. It's going to be a fun year, a fun Congress.

Let the record also show that it took us two hours and 50 minutes to get to acid rain, or acidic precipitation, which is a mark of a change not in our concern, but in some of the progress that we have experienced. Let me also associate myself, Mr. Chairman, with the question that the Republican leader asked relative to incinerators. And I would like also, because we have discussed it before, to associate myself with Ms. Browner's response. Because I think it is the appropriate response under the circumstances, and I think most of us here would agree with it.

As I was listening to Senator Boxer's questions of you, I was reminded that part of the Clean Air Act was an effort to create a—I'll give you the whole name—Chemical Safety and Hazard Investigation Board, which I struggled to model on the National Transportation Safety Board and struggled to get through this committee and the Senate and the Congress, only to find that the past Administration had been unable to come to grips with appointments. Are you familiar with the Chemical Safety Board and do you have an opinion as to its relative value, and whether or not you would urge appointments to the Safety Board in order to deal with some of the issues that were raised by Senator Boxer?

Ms. BROWNER. Senator, I apologize. I am only very superficially familiar with the Board that you mentioned. But obviously if it's a board that has been created by Congress and there are statutory mandates in terms of appointments to that board, I would certainly support that.

Senator DURENBERGER. On the issue of pollution prevention, Bill Reilly created a program called a 33/50, that voluntary program in

cooperation with industry. Are you generally familiar with it, and have some feeling about whether it ought to be continued, or something like it continued?

Ms. BROWNER. I am generally familiar with it. I think it has been a good program and I would certainly like to see something like that continued.

Senator DURENBERGER. Also on the subject of pollution prevention, I take it you are familiar with the toxic release inventory. Do you have a view on whether it would be useful to broaden the program?

Ms. BROWNER. I am familiar with TRI. It is not managed by my agency in Florida, it is managed by our Department of Community Affairs, and it is only within the last year that the State DER has made use of that, although we have found it to be extremely useful. I think that should absolutely happen, we should make sure all agencies are using the information. Whether there is a longer list I can't say at this time, I'm not familiar enough with the list that is covered.

Senator DURENBERGER. On the issue of Superfund, do you have a—and I'm not sure you got into it in your response to Senator Lautenberg's question—do you have a view on strengthening the States' role in the implementation of Superfund? Superfund's one of those programs that's like 90 percent Federal money. Yet it seems to me it depends in part for its success on a greater expanded State role. Do you have a view on that?

Ms. BROWNER. I think that the States have a significant role to play in the success of the Superfund program within their State. I think that is true, yes.

Senator DURENBERGER. I'm rushing through this to get my last question out, also. On infrastructure, we have all heard about President Clinton's commitment to infrastructure. We know that sewage treatment, drinking water, hazardous waste disposal are all infrastructure programs. So my question is, is there a group somewhere out there working on infrastructure proposals? Are you or other EPA transition officials directly involved in that effort, and could you give us just a little glimpse of what your thoughts would be on short-term contributions in the environmental area, or long-term contributions to those kinds of infrastructure proposals?

Ms. BROWNER. I think there are groups actually working these issues in terms of looking at the broad list of programs that may be part of a stimulus package, a deficit reduction package. I think one of the things I will take back from this hearing today is what I think is this committee's strong interest in seeing the Safe Drinking Water Act and the State revolving loan fund for the wastewater treatment programs used effectively and perhaps part of some sort of package in the early phases.

Senator DURENBERGER. You might also take back the fact that the—this will probably come up if it hasn't in the Energy Committee—the huge problem that faces this Nation of cleaning up military installations.

Ms. BROWNER. Yes.

Senator DURENBERGER. The even larger problem, perhaps, we don't even know the extent of it, it's been referred to here, cleaning up commercial and industrial sites in our communities, in

inner cities in particular might well be an appropriate long-term investment that's got a couple of different kinds of payoffs to it.

Senator BAUCUS. Thank you, Senator.

Next is Senator Wofford.

Senator WOFFORD. In the category of how to be a pro-business environmentalist, do you think that the EPA can be a leader in the development of new environmental technologies? How can EPA speed up and expand the utilization of such technologies?

Ms. BROWNER. I agree that EPA can and I would say should be a leader in not only calling for the use of environmental technologies, but also in encouraging the development of those technologies. And I think that there are probably many ways that the agency can do that. The agency has a substantial research and development arm that can be brought to bear, it can work with other agencies in these efforts.

Senator WOFFORD. Thank you. Godspeed.

Senator BAUCUS. Next, Senator Lieberman.

Senator LIEBERMAN. Thank you, Mr. Chairman.

Very briefly, Ms. Browner, I wanted to talk in a little bit more detail about the carrots and the sticks. In the first place, let's talk about the sticks. In 1990, I worked on the Pollution Prosecution Act and this committee adopted it on a bipartisan basis with good support from Bill Reilly and EPA, which created the National Enforcement Training Institute to give training to Federal, State, and local environmental officers and also increase the number of criminal and civil investigators in the Department.

General and specific question, generally what place do you give or will you give pollution prosecution in your administration of the Department, and secondly, will you attempt to carry out the Pollution Prosecution Act of 1990?

Ms. BROWNER. I think enforcement of the law is extremely important. I think working with the business community, working with local governments cooperatively is also important. But there are instances where the agency must move forward in a more formalized type setting, and enforce the law in that way. I will absolutely enforce the Act.

Senator LIEBERMAN. And on the carrot side of it, there has been discussion throughout the morning about pollution prevention. Last year in the committee-passed RCRA bill, we had a section on pollution prevention, creating a planning process for businesses on the theory that a lot of us have found in our home States, which is that if you encourage a business to look at the way it's doing its business and consider environmental impacts, that often they will be happy to change their ways and become more environmentally sensitive. Besides helping the environment, it tends to make their process more efficient, more economical.

General speaking, as you begin this new era in environmental protection, and even as you hopefully go up to become a member of the Cabinet, how much of a priority will this be for you, in other words, regulation as compared to prevention. Where do you put prevention in your list of priorities as you go forward?

Ms. BROWNER. I think prevention deserves a very, very high priority. I think there are an awful lot of gains to be made through pollution prevention. It has been our number one priority in Flori-

da, after a great deal of thought and analysis of where, as a State, we wanted to be 10, 15, 20 years from now. We chose pollution prevention as our environmental priority in the State of Florida.

Senator LIEBERMAN. Finally I have two very quick questions. One of the great disappointments for a lot of people in this country and around the world during the environmental conference in Rio is that the United States did not sign the biodiversity treaty. Will you encourage the Clinton Administration to become a signatory to the biodiversity treaty?

Ms. BROWNER. I will certainly work with the Administration on that very important issue. My understanding is that President-Elect Clinton has indicated that he would like to see the issues of intellectual properties address. And I am hopeful that that can happen.

Senator LIEBERMAN. I am, too.

Finally, in talking about EPA becoming a Cabinet-level department, there is also the opportunity for some reshuffling of functions. One that jumps out and has in previous consideration of the reorganization is the placement of NOAA in the Department of Commerce, and the question as to whether it does not much more appropriately belong in a department of environmental protection. What's your feeling about that?

Ms. BROWNER. Senator, I think it's premature to discuss reorganization at this time. I would hope that if I'm confirmed and get to the agency, that then we can have a discussion about reorganization, one that I will be then better informed on.

Senator LIEBERMAN. Fair enough. Thank you, good luck.

Senator BAUCUS. I thank Ms. Browner. I have answered your question about the bench, and I urge you to think even more seriously about that than I know you did and have. I say that because I am reminded of a confirmation a good number of years ago when a then-HHS nominee was before the Senate Finance Committee, a committee that a number of us on this committee are members of, and Chairman Moynihan about to be the chairman of.

That was the question I asked, that is, the priority of prevention in health control and health problems in this country. And the answer was, that's going to be the number one priority, prevention, preventive health care. And nothing happened, nothing, absolutely nothing. So I urge you to see if you can make something happen with respect to pollution prevention.

Senator Boxer.

Senator BOXER. Thank you, Mr. Chairman.

I just wanted to say that I agree totally with Senator Durenberger's remarks about a Chemical Safety Board. Because unfortunately, we learn when there are these accidents. And if we had some people who were just primed to investigate and recommend, I think it would be a great improvement over where we are now, where we have to look for whistle blowers to tell us what's happening. So I would add my voice to that.

I also agree with Senator Lieberman on the NOAA situation. A add my voice to that.

I have a question that I don't expect you to give me a definitive answer to, because it's OSHA related. But there was a story that the EPA, in 1990, had dropped tobacco smoke from its basic re-



search program on indoor air pollutants. And at that time, they were really studying the impact of second-hand smoke on children. So it was a very detrimental, I think, thing to do.

Just recently, Mr. Reilly, the EPA Administrator, to his credit, stated that the risk from secondary smoke is higher "than they are for virtually any chemical or risk that EPA regulates." So there is this tremendous contradiction here, and I would only ask you to answer this question. Would you consider taking a look at that decision and perhaps going back and undertaking this basic research again at EPA? Would you consider looking at it?

Ms. BROWNER. I would certainly consider that.

Senator BOXER. There is something in the Bush Administration budget that I really like, which is unusual for me, and it is the Wastewater Construction Grants program, in which they target five areas. And in it, there is \$55 million and \$45 million respectively for L.A. and San Diego, these cities are operating under consent decrees. They are desperate for Federal assistance. It reaches to the point of mandates. The question to you is, is the Clinton Administration committed to this program?

Ms. BROWNER. To the State revolving—

Senator BOXER. To the Wastewater Construction Grants program.

Ms. BROWNER. The issue of increased funding and continuation of the program is certainly an important issue, and one that I will certainly make sure that the President is aware of. I believe that he is, but also that of the development, as I said earlier, of the budget priorities, that it is considered.

Senator BOXER. Let me say in closing that I think you are an extremely effective individual. I think that you will be someone who listens, and someone who really gets it, understands that there is no conflict between a healthy environment and a strong economy, that in fact they go hand in hand. And all of us may have disagreements on one thing or another, but I think we basically believe that, and I think that's why we chose to serve here.

I hope you will remember as you go about your work that our oceans are in trouble, I know you know that, our wetlands are in trouble, we have too many toxics out there that we still haven't figured out what to do with. Your job is just an enormous one, and I have the sense that this new Chairman and the members here are really looking forward to working with you, and I wanted to thank you for your very good responses here.

Ms. BROWNER. Thank you.

Mr. Baucus. Thank you, Senator.

I don't believe there are any more questions, Ms. Browner. This is, as you know, been a confirmation hearing. Therefore, the purpose of the hearing is to assess your qualifications and temperament for the job. Necessarily, it's been virtually impossible for you to answer specific questions that the Senators have put to you. We understand that and we appreciate that.

However, I would like you to come back to this committee in another three months or six months, at some appropriate time after you have had an opportunity to assess the agency and get a better appreciation of what some of the nuances might be, so that we can mutually explore some solutions to some of the problems we have



raised and some of the questions we have asked. I think that would be a constructive mutual use of our time, and I would like you to agree to do so.

Ms. BROWNER. Senator, I would look forward to coming back to this committee whenever and however many times you all think that appropriate.

Senator BAUCUS. I know I speak for the rest of the committee in saying we very much appreciate that, and we very much look forward to a new day, a new era of even better cooperation and consultation between our two entities, our two bodies.

I might say, for members of the committee, that the consultation with the Chairman of the committee, Senator Chafee, that we will meet on Tuesday, January 19th, for the purpose of considering the nomination of Ms. Browner, and making a recommendation then to the full Senate when that recommendation is received by the Senate. So that will be sometime Tuesday, probably Tuesday afternoon. I'm trying to work out a time that's mutually convenient for all members of the committee but it will probably be sometime Tuesday.

Thank you very much. The hearing is now recessed.

[Whereupon, at 1:20 p.m., the committee was adjourned, to reconvene at the call of the Chair.]

[Responses to a committee questionnaire and additional questions follow:]

UNITED STATES SENATE  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS  
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Browner Carol Martha  
(Last) (First) (Middle)

Position to Administrator Date of  
which nominated: Environmental Protection Agency Nomination: Jan. 20, 1993

Date of birth: 16/12/55 Place of birth: Miami, Florida  
(Day) (Month) (Year)

Marital status: Married Full name of spouse: Michael Avram Podhorzer

Name and ages  
of children: Zachary Browner Podhorzer 5 years old  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Education:	Institution	Dates attended	Degrees received	Dates of degrees
	U. of Florida Law School	3/77-8/79	JD	8/79
	U. of Florida (Gainesville)	9/75-3/77	BA	3/77
	Miami Dade Comm. College	9/73-12/74	AA	12/74
	_____	_____	_____	_____
	_____	_____	_____	_____

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

1/91-1/93 Secretary, Dep't of Environmental Regulation, Tal., FL

6/89-1/91 Legislative Director, Sen. Albert Gore, Washington, DC

2/89-6/89 Counsel, Senate Energy Committee, Washington, DC

1/89-2/89 Counsel, Senate Governmental Affairs Comm., Wash., DC

12/86-12/88 Sr. Legis. Aide, Sen. Lawton Chiles, Wash., DC

## Employment record—Continued

~~6/86-12/86 Independent Consultant, PBS Frontline, Washington, DC~~  
~~6/84-6/86 Associate Director, Citizen Action, Washington DC~~  
~~6/83-6/84 Senior Staff, Clean Water Action Project, Washington, DC~~  
~~1/83-6/83 Fundraising Staff, Cranston for President, Washington, DC~~  
~~8/81-11/82 Deputy Campaign Manager, Sheldon for Congress, Tampa, FL~~  
~~12/77-8/81 Florida Legislature (General Counsel House Committee on~~  
~~Government Operations, Clerk, Joint Committee on~~  
~~Administrative Procedures) Tallahassee, FL~~

## Honors and awards:

List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

President's Conservation Award, The Nature Conservancy

## Memberships:

List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
Florida Bar	Member	1980 to present

Qualifications: State fully your qualifications to serve in the position to which you have been named.  
See attachment

---

---

---

---

---

---

---

---

---

---

Future  
employment  
relationships:

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

I will sever all connections with my present employer if I am  
confirmed by the Senate

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.

I have no plans to resume employment with any previous employer  
after completing government service.

3. Has anybody made a commitment to you for a job after you leave government?

Nobody has made a commitment to me for a job after I leave  
government.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

---

---

- (b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

I know of no limitations on my ability or willingness to

serve for the foreseeable future.

- (c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Financial  
Statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).
2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

State of Florida defined contribution annuity contract (\$15,001-\$50,000)  
State of Florida employee savings plan (\$1,001-\$15,000)

3. Are any assets pledged? (Add schedule).

No

4. Are you currently a party to any legal action?

Only in my official capacity as Secretary of the Department of  
Environmental Regulation

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes.



6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No.

---



---

Potential conflicts  
of interest:

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

---



---



---



---

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None.

---



---



---



---

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

None.

---



---



---



---

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

None.

---



---



---



---

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

I have submitted an ethics agreement to EPA establishing  
my recusal policy, a copy of which is attached. OGE  
will submit the approved Form 278 and Ethics Agreement.

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of \$1,000), and services rendered to any political party or election committee during the last 10 years.

Fundraising Staff, Cranston for President Committee  
1/83-6/83

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

Copies of publications are attached

I speak extemporaneously. Although my DER staff would  
on occasion draft proposed speeches for official  
appearances, I did not give those speeches as written.  
Therefore I do not have copies of delivered speeches,  
with the exception of a statement written for the  
Nature Conservancy on September 22, 1992 (attached).

---



---



---



---

Additional  
Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

None.

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes.

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No.

#### AFFIDAVIT

Carol M Browner ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

Carol M Browner

Subscribed and sworn before me this 4th day of January, 1993.

Virginia L Hackley Virginia L. Hackley  
Notary Public

My Comm. Expires February 24, 1997

statement for the epa questionnaire (Page 3)

I have devoted virtually my entire career to environmental protection. I have gained invaluable experience and insight into policy development and implementation at the federal and state levels. I have made significant contributions to environmental policy development as staff in the Florida State Legislature and the United States Congress. As Secretary of Florida's Department of Environmental Regulation for the last two years, I have led a team that has made remarkable progress in restoring and protecting Florida's fragile environment while still supporting the state's commitment to economic development. I have attached additional materials that describe some of our approaches and successes.

**Carol M. Browner, Secretary**  
**Florida Department of Environmental Regulation**

Governor Lawton Chiles appointed Carol M. Browner to head the Florida Department of Environmental Regulation in January 1991.

The Department, Florida's principal environmental protection agency, has some 1700 employees working in five major environmental program divisions and six district offices throughout the state.

Secretary Browner, a Miami native, received a law degree in 1979 from the University of Florida, where she also did her undergraduate work. Having seen Florida's growth and its impact on the state's natural resources, Ms. Browner has devoted most of her public service career to the protection of the environment.

As General Counsel for the Florida House of Representatives Government Operations Committee, she helped revise Florida's Conservation and Recreational Lands program. Subsequently she was chief legislative aide on environmental issues for then-U. S. Senator Chiles, including complex negotiations to expand the Big Cypress Natural Preserve, as well as stopping the oil drilling of the Florida Keys.

She also helped create one of the largest contiguous protected federal land areas east of the Mississippi by gaining funding for the federal acquisition of the Pinhook Swamp Area -- the land connecting the Osceola National Forest in the northern part of the state near Jacksonville and the Okefenokee National Wildlife Refuge in southern Georgia. Prior to her appointment as DER Secretary, Ms. Browner was Legislative Director for U. S. Senator Albert Gore, considered one of the most active federal policymakers on environmental issues. She managed Senator Gore's legislative staff and implemented his environmental agenda, including negotiations on the Clean Air Act and other major federal environmental legislation.

In September, 1992 Ms. Browner won the Nature Conservancy's President's Conservation Achievement Award, the highest honor given by the organization to public officials.

Secretary Browner resides in Tallahassee with her husband, Michael Podhorzer, and son Zachary, 4.



## Accomplishments of Florida's Department of Environmental Regulation 1991 - 1992

In January, 1991, Governor Lawton Chiles appointed Carol Browner Secretary of the Department of Environmental Regulation (DER). Under Secretary Browner's leadership DER has gone beyond its traditional role as a passive regulator to actively fashion comprehensive solutions to the state's most pressing environmental problems. Accomplishments include:

- **Restoring the Everglades.** In 1989 the federal government sued the state of Florida for failing to protect the Everglades. Secretary Browner quickly settled the complex and costly lawsuit and won passage of new legislation to implement the settlement. The settlement won widespread praise from those concerned with the future of the Everglades. Secretary Browner now directs state efforts towards cleanup of this precious and unique ecosystem.
  - **Preserving Florida's Wilderness.** Secretary Browner was instrumental in winning continued funding for Preservation 2000. Nearly \$1 billion has been appropriated for land purchases, and to date, more than 120,000 acres of treasured lands have been permanently preserved. The nationally acclaimed program has saved land crucial to the health of the Everglades, and has halted development of the most pristine beaches in the Florida Panhandle.
  - **Pioneering New Approaches to Wetlands Permitting.** The most celebrated example is the preservation of Walker Ranch, 8,500 acres of unspoiled land in Central Florida. DER, Walt Disney World and the Nature Conservancy came together to fashion an agreement that will enable the Conservancy to permanently restore and protect Walker Ranch and will minimize the environmental impact of Disney World's 20 year build-out. The new approach preserves and restores an entire system where the old approach merely required developers to promise to build so many acres of man-made wetlands. Even when developers act in good faith, more than two-thirds of "created" wetlands fail to function properly.
  - **Pioneering New Approaches to Regional Environmental Protection.** Secretary Browner was the pivotal mediator responsible for settling a lawsuit brought by Florida and Alabama against the U. S. Army Corps of Engineers over management of the waters of Appalachicola - Chattahoochee - Flint River System. The settlement marked the first time that states sharing an ecosystem took a system wide approach to its management. The settlement guarantees that Florida's downstream needs -- including the valuable fisheries of Appalachicola Bay -- will be protected.
  - **Protecting the Public from Hazardous Waste.** Under Secretary Browner's direction DER won a moratorium on the siting and construction of bio-
-

hazardous waste incinerators was enacted by the Florida Legislature. Browner was also the force behind passage of a new state law on underground storage tanks. The law significantly improves the way petroleum cleanups will be addressed and encourages greater owner/operator responsibility for cleanup and restoration costs. Secretary Browner has also worked for a ban on the sale of mercury batteries.

- **Making Pollution Prevention Pay.** The future of effective environmental protection clearly lies in the direction of encouraging pollution prevention, recycling and energy efficiency rather than in merely prohibiting certain activities. Secretary Browner is working for legislation that would establish minimum content of recycled materials as well as a ban on toxics in packaging.
  - **Restoring the Kissimmee River.** Secretary Browner worked closely with U. S. Senator Bob Graham to secure federal funding for the restoration of the Kissimmee River, the lifeblood of the Everglades system. The project has been called the world's premiere river restoration effort. The project will restore some 26,000 acres of wetlands and more than 50 square miles of ecosystem, which provides habitat for over 300 species of wildlife.
  - **Making the Clean Air Act Work for Florida.** Under Secretary Browner, legislation was adopted that creates the framework for DER to obtain delegation from EPA to implement the federal clean air program. Working together with industry representatives, Browner established a coalition of business leaders that agreed on a schedule for increasing fees for major sources of air pollution before the federal government required it. The legislation also established a Small Business Technical Assistance Program to assist small businesses in achieving compliance with the new law.
-

*Carol M. Browner  
2600 Blair Stone  
Tallahassee, Florida 32399*

January 4, 1993

Mr. Gerald H. Yamada  
Principal Deputy General Counsel  
Designated Agency Ethics Official  
U.S. Environmental Protection Agency  
Washington, D.C. 20460

Subject: Ethics Agreement

Dear Mr. Yamada:

The purpose of this letter is to describe the following steps that I intend to take to avoid actual or apparent conflict of interest, if I am confirmed to serve as Administrator of the Environmental Protection Agency (EPA):

1. I will recuse myself from participating personally and substantially in any EPA matter which involves the State of Florida as a specific party and in which I was personally and substantially involved as Secretary, Department of Environmental Regulation, State of Florida.
2. For a one-year period from the date of my resignation from the position of Secretary, Department of Environmental Regulation, State of Florida, I will not participate in any particular EPA matter involving the State of Florida or its political subdivisions as a specific party. However, this recusal will not extend to matters which generally affect State and local Governments or to general rulemaking, policy matters or legislative initiatives.
3. I will recuse myself from any particular matter involving a specific party or parties with respect to which Citizen Action makes a communication or appearance before EPA so long as my spouse, Michael A. Podhorzer, is an employee of Citizen Action. I understand that Citizen Action does not receive any Federal funds, and my spouse has recused himself from environmental matters at Citizen Action. Nonetheless, I will recuse myself from particular matters as discussed above. However, this recusal does not extend to receiving and considering the comments of Citizen Action on general rulemaking, policy matters or legislative initiatives.

January 4, 1993  
Ethics Agreement  
Page 2

I have an annuity pursuant to my employment with the State of Florida. The holdings of the annuity plan are broadly diversified and independently managed. It is a defined contribution plan in which the State of Florida has no continuing financial interest.

If confirmed as Administrator, I will issue directions to my immediate staff and to the Deputy Administrator that matters covered by this recusal are to be referred to and handled by the Deputy Administrator without my participation. I will further instruct them to consult with the Designated Agency Ethics Official in case of uncertainty about whether a matter is covered by this recusal.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carol M. Browner".

Carol M. Browner

January 14, 1993.

THE HONORABLE MAX BAUCUS  
*Chairman, Environment and Public Works Committee*  
*United States Senate*  
*Washington DC.*

RE: Responses to Questions

DEAR MR. CHAIRMAN:

Enclosed for your review are my responses to the questions that were submitted following my confirmation hearing. Please feel free to contact me if you need additional information.

I look forward to working with you and the members of the Environment and Public Works Committee if I am confirmed.

CAROL M. BROWNER,  
*Administrator-Designate, EPA.*

RESPONSES OF ADMINISTRATOR-DESIGNATE BROWNER TO QUESTIONS SUBMITTED BY  
 CHAIRMAN BAUCUS

*Question 1:*

How do you understand the agricultural exemption from the regulatory permitting requirements on wetlands from section 404 of the Clean Water Act? Does the exemption include all segments of agriculture—particularly pasture and rangeland? Do you think this exemption is working and being fairly enforced?

*Answer:*

It is my understanding that the activities that may be exempt from section 404 permit requirements include normal farming, ranching and silvicultural activities and, therefore, may include pasture and rangeland. If confirmed as EPA Administrator, I will be pleased to review implementation and enforcement of these section 404 provisions.

*Question 2:*

How would you characterize the importance of property rights to environmental protection? How do you balance constitutional property rights with statutory regulatory authority?

*Answer:*

The Constitution guarantees that property cannot be taken by the government without just compensation. Protection of property rights is an important consideration in environmental protection efforts.

*Question 3:*

How do you define "free market environmentalism"? Do you think this is relevant to EPA programs and in what ways?

*Answer:*

I am not familiar with the term as others may use it, but I would hope that it means working within our free-market economy to improve environmental protection. I think that this goal is relevant to all of the EPA's programs.

*Question 4:*

Do you see potential conflicts with water quality programs and state authorities on water quantity? If so how would you propose resolving them?

*Answer:*

The potential for conflicts always exists. Water quality programs must work in concert with state authorities on water quantity.

*Question 5:*

What is your position on the proposed changes to the 1991 Federal Delineation Manual on Jurisdictional Wetlands? What do you think is a fair hydrology criterion?



*Answer:*

The 1991 proposed changes did not accurately identify wetlands in the State of Florida. The Congress has directed the EPA to contract with the National Academy of Sciences to review and make recommendations concerning the methodology for delineating wetlands, including the methodology in the 1991 proposed changes to the 1989 delineation manual. Those recommendations are due this year. I would want to have an opportunity to review them before commenting on these matters.

*Question 6:*

William Reilly supported EPA compliance with Executive Order 12630 on Fifth Amendment "Takings" issues. What is your position on this requirement that federal agencies assess the potential impact on property rights of their proposed actions?

*Answer:*

I believe that impacts on property rights should be considered by federal agencies consistent with the federal Constitution.

*Question 7:*

How big a problem is nonpoint source pollution? What do you think are the best ways for the federal government to address the problem?

*Answer:*

I recognize that non-point source pollution is a problem in this country. If confirmed, I will review the problem and existing authorities, and I will work with the Congress, the States and affected individuals and interests to identify approaches to address the problem.

*Question 8:*

How would you define general state authorities to allocate quantities of water?

*Answer:*

I am not sufficiently familiar with the authorities of states, other than Florida, to allocate quantities of water to provide such a definition at this time. I would be pleased to review this subject and discuss it with you if you so desire.

*Question 9:*

How would you define "biological integrity" of waters? Do you think this is a realistic goal for all waters of the U.S.?

*Answer:*

The Clean Water Act's stated goal is to restore and maintain the physical, chemical and biological integrity of the nation's waters. In this context, the Congress has said that the term "biological integrity" refers in part to the ability of our waters to support fish and wildlife. The substantial progress that has been made over the last 20 years toward achieving the goals of the Clean Water Act have demonstrated that they are realistic.

---

RESPONSE OF ADMINISTRATOR-DESIGNATE BROWNER TO THE QUESTION SUBMITTED BY  
SENATOR MOYNIHAN

*Question:*

The Clean Air Act of 1990 requires both a benefit/cost analysis of the implementation of the Clean Air Act and an ongoing registry of acidified lakes. Will you assure that these two activities are carried out in accordance with the requirements of the law?

*Answer:*

I will implement the law to the best of my abilities, including the provisions of the Clean Air Act of 1990.

---

RESPONSES OF ADMINISTRATOR-DESIGNATE BROWNER TO QUESTIONS SUBMITTED BY  
SENATOR LAUTENBERG

*Question 1:*

What are your views about any necessary changes to the Superfund liability scheme?

*Answer:*

If confirmed, I would first want to review the existing program and determine what changes, if any, are appropriate to improve implementation. Until I have had an opportunity to review the program in some detail, I am not prepared to take a position on the issue of liability. I understand the concerns and will make review of this issue a priority.

*Question 2:*

What are you going to do about EPA's contract management problems, which the outgoing Administrator has admitted is a deep-seated, systemic problem?

*Answer:*

I am concerned about EPA's contract management problems and the extent to which these problems detract from the most important job of protecting public health and the environment. If confirmed, I expect to devote attention to this matter.

*Question 3:*

What will you do to address this pervasive fiscal management problem?

*Answer:*

As in the separate case of contract management, I will review this issue in some detail. It is important to me that Federal funds be spent wisely so that EPA achieve the maximum use of those funds in cleaning up hazardous substances at Superfund sites.

*Question 4:*

What plans do you have to prioritize and improve upon public involvement and community relations as part of the Superfund program?

*Answer:*

In order to adequately implement the Superfund program, EPA, the responsible parties, the State and the local community must work well together toward a common goal of cleaning up the site. In communities where this is a problem, which includes some minority and low-income communities, I will make improved communications a priority.

*Question 5:*

The press reported just last week that EPA is planning to back away from its plans to expand the list of industries required to report their emissions. Is this true? Why is this happening?

*Answer:*

I am aware of the press reports as well. If confirmed, I will determine the status of efforts to expand reporting and the reasons for any change in plans, if there has been a change.

*Question 6:*

What will you do to ensure that more chemicals, and the quantities of chemicals manufactured and used, are required to be reported to the public?

*Answer:*

As I indicated in my oral testimony before the Committee, I believe that communities have a right to be informed about what chemicals are in plants in their neighborhoods. I am also familiar with the potential trade secrets problems. I believe that both interests should be accommodated.

*Question 7:*

What ideas do you have to dealing with non-point source pollution?

*Answer:*

I recognize that non-point source pollution is a problem in this country. If confirmed, I will review existing authorities and become more familiar with the problem as it affects areas of the country.

*Question 8:*

Would you like to see EPA setting environmental claims standards?

*Answer:*

It is important that environmental claims be legitimate. I am aware that some States have made efforts in this regard and I hope to work with Congress, the Federal Trade Commission, industry, and the States to resolve this issue.

*Question 9:*

Will you give me a commitment that the EPA under your leadership will continue its scientific work on the dangers of secondhand smoke and resist tampering by the tobacco industry?

*Answer:*

I am aware of your work in the area of smoking in public places and applaud your efforts on the airline smoking ban. I am sensitive to the problems posed by secondhand smoke. I am familiar with stories about EPA's research on secondhand smoke, but have no first-hand knowledge about the status of the research. If confirmed, I will review the matter.

---

RESPONSES OF ADMINISTRATOR-DESIGNATE BROWNER TO QUESTIONS SUBMITTED BY  
SENATOR LIEBERMAN

*Question 1a:*

Do you support such interstate efforts to clean up estuaries?

*Answer:*

I support interstate efforts to clean up estuaries.

*Question 1b:*

Do you support a continued federal role in the clean up of estuaries which have participated in the National Estuary Program?

*Answer:*

I support implementation of Federal laws to address these issues. It is appropriate, I believe, for the Federal government to be involved in interstate pollution issues such as the one involved in Long Island Sound.

*Question 1c:*

Will you pledge your support to the continuation and full staffing of the Long Island Sound Program Office? Especially as we enter one of the Study's most critical phases, the public review of its Comprehensive Conservation and Management Plan?

*Answer:*

I support efforts to address the problems of Long Island Sound and will review the activities of the Long Island Sound Program Office.

*Question 1d:*

What research activities need to be carried out to develop methods to restore or mitigate impacts on ecosystems in the coastal and near-coastal environments?

*Answer:*

I believe that EPA needs to have high quality ecological risk assessment capabilities, including ecosystems in the coastal and near-coastal environments. If confirmed, I intend to work toward this end.

*Question 2: (Pollution Prevention)*

Are you familiar with the work that the Department of Commerce's National Institute of Standards and Technology has been doing at the manufacturing centers? Do you think there is an opportunity to incorporate pollution prevention and environmental compliance assistance into the work of these centers?

*Answer:*

I am not familiar with the specific work of MST in this regard, but I look forward to learning more about it and assessing the possible application of MST work to EPA programs. I believe that pollution prevention deserves significant support and encouragement.

*Question 3:*

Have you had an opportunity to give some thought to the best method to promoting the development and commercialization of environmentally clean technology?

*Answer:*

I am very interested in promotion of clean technology. EPA can serve as a clearinghouse in both identifying environmental needs and potential technologies to meet those needs. I hope to work with you and others to explore these possibilities further.

*Question 4:*

Will you at your earliest convenience request that the NAS brief you on the status of the report (on the effect of pesticides on children) and the information developed at this point?

*Answer:*

I will ask to be briefed on the NAS report on the effects of pesticides on children once it is released.

*Question 5:*

When the [Lawn Care Pesticide] Advisory Committee's work is completed, do you anticipate that EPA will attempt to craft federal regulations in this area?

*Answer:*

Any EPA response to the work of the Advisory Committee should await a final report on the Committee's conclusions.

*Question 6:*

For the past several years EPA has been developing a lead strategy and we have been continually told that a notice of proposed rulemaking on lead is in the works. When do you anticipate releasing a lead strategy?

*Answer:*

If confirmed, I will review the status of the lead strategy and provide you with a more complete response once I have more information.

*Question 7:*

Will the agency use TSCA to ensure that lead-containing products which pose a risk to human health or the environment are removed from the market or not allowed on the market?

*Answer:*

If confirmed, I will review the need for further action to protect adequately human health and the environment from risks of lead exposure.

*Question 8:*

Is the agency considering labeling of lead-containing products which could pose a risk to human health or the environment?

*Answer:*

If confirmed, I will review the status of agency efforts in this area.

*Question 9:*

How will EPA work with HUD to implement Title X of the Housing Act and ensure that research and development of cost-effective lead abatement and testing techniques is well funded and seriously pursued?

*Answer:*

If confirmed, I will work with HUD officials to implement Title X of the Housing Act.

*Question 10:*

Will you commit to a firm early date for resolving the ongoing litigation against municipalities who sent or transported ordinary municipal waste to Superfund sites (in particular the Beacon Heights and Laurel Park litigation in Connecticut), in a manner consistent with the legislation passed by the Senate last Congress?

*Answer:*

If confirmed, I will review the issue of municipal liability as part of my overall review of the Superfund program.

*Question 11:*

Have you given any thought to how these outreach programs to small businesses can be expanded?

*Answer:*

I am concerned about EPA outreach to small business. If confirmed, I will review the status of agency efforts in this area.

*Question 12:*

Are you committed to reevaluating this decision (President Bush's decision regarding ethanol and reformulated gasoline) as part of the rulemaking process?

*Answer:*

If confirmed, I will assess the reformulated gasoline rulemaking.

---

RESPONSES OF ADMINISTRATOR-DESIGNATE BROWNER TO QUESTIONS SUBMITTED BY  
SENATOR METZENBAUM

*Question 1:*

What are your plans for improving Superfund and cleaning up the thousands of hazardous waste sites around the country?

*Answer:*

I recognize that there are widespread concerns with the Superfund program. One of my highest priorities is to review the program and make any necessary administrative changes.

*Question 2:*

Can we have your assurances that you will look into this matter (Uniontown) quickly?

*Answer:*

I will review the status of this site as a part of my overall evaluation of the Superfund program.

*Question 3:*

What can EPA do to make DOE and DOD more responsive (to cleanup of government-owned mixed waste sites)?

*Answer:*

If confirmed, I will fully implement any responsibilities EPA has under the Resource Conservation and Recovery Act and the Federal Facility Compliance Act. I believe that DOD, DOE, and EPA can form a more productive working relationship and I look forward to working with my colleagues in the Administration toward that end.

*Question 4:*

There is a controversy surrounding a permit approving expansion of Ohio's Enviro-safe hazardous waste landfill which I would like to bring to your attention. . . . I hope I can have your assurance that once confirmed and at the helm of the EPA you will investigate this entire matter promptly.

*Answer:*

I am not familiar with this situation at this time, but I will review it if I am confirmed.

*Question 5:*

May I have your thoughts on the rights of citizens to bring lawsuits challenging violations of environmental laws?

*Answer:*

Citizen suits have played an important role in protecting human health and the environment under various statutes. I cannot comment on the Lujan v. Defenders of Wildlife decision because I have not reviewed it.

---

RESPONSES OF ADMINISTRATOR-DESIGNATE BROWNER TO QUESTIONS SUBMITTED BY  
SENATOR BOXER

*Question 1:*

Please describe the standard you think the Environmental Protection Agency should follow in balancing a community's right to know about toxic substances used



or emitted by local facilities with the right of a manufacturer or other corporate entity to have its "trade secrets" protected from disclosure.

*Answer:*

Many statutes administered by EPA prohibit the release to the public of trade secret information. The statutes set forth the standards for disclosure of information. If confirmed, I will implement the law and will review the Agency's policies on this issue.

*Question 2:*

How can we significantly increase the amount of nontoxic waste that is recycled in this country? Do you envision a strong federal role in this effort? How important is the idea of waste reduction at manufacturing sources? Do you expect to propose or support legislation in this area in the 103d Congress?

*Answer:*

The federal government should play a leadership role in encouraging both recycling and source reduction of waste. If confirmed, I will assess the opportunities for advancing the federal role through administrative changes and initiatives under existing federal law. After such an assessment, I will be able to determine what, if any, legislation could best enhance the federal role.

*Question 3:*

Recent reports by the EPA and the Office of Technology Assessment indicate that there are huge amounts of "nonhazardous" industrial waste generated annually, including nearly three billion tons of oil and gas production waste. The EPA has the statutory authority to regulate the disposal of these wastes under the Resource Conservation and Recovery Act, yet has not done so. Will you take action as Administrator to initiate regulation of this type of waste? So you intend to seek additional legislative authority or direction in this area?

*Answer:*

I will review the public health and environmental impacts of "nonhazardous" industrial waste disposal if confirmed. In addition, as we discussed during my confirmation hearing on Monday, I believe pollution prevention can play a critical role in reducing the problems of waste generation and disposal. I look forward to working with you and the other members of the Environment and Public Works Committee in examining the many complex issues posed by disposal of nonhazardous waste.

*Question 4:*

California is disproportionately affected by military base closures. Ten bases in my state are now scheduled to be closed, and of those ten, six are designated Superfund sites. Additionally, California has almost forty percent of the active toxic sites on all military bases closing nationwide. The EPA's role in cleaning up these facilities must include facilitating the expeditious transfer of facilities to private ownership for development. Will you commit to making this a top priority for quick action by the EPA? What role do you see for cooperation with state agencies and the Department of Defense?

*Answer:*

If confirmed, I will review current Agency activities to ensure that EPA is working diligently with the Department of Defense and the State of California to address the challenges that these base closings pose.

---

#### RESPONSES OF ADMINISTRATOR-DESIGNATE BROWNER TO QUESTIONS SUBMITTED BY SENATOR CHAFEE

*Question 1:*

Given your experience in running the Florida Department of Environmental Regulation, do you believe that the States should be playing a bigger role in implementing the Superfund program? If so, how would you propose that current law be changed to give them greater authority?

*Answer:*

States with adequate resources and experience in addressing cleanup of hazardous substances have a valuable role to play.

*Question 2:*

I am sure you are well aware of the dangers of exposure to lead, especially for young children. Last year, we made substantial progress in addressing the problem of exposure to lead in paint in amendments to the Housing bill. During the last Congress, there were also a number of proposals considered that would give EPA the authority to restrict or ban the marketing of products making new uses of lead not currently in existence. Do you favor regulating new uses of lead in products?

*Answer:*

As you indicated, I am very concerned about the problems of childhood lead exposure. Both the States and the Federal government should have the necessary tools available to combat the serious problems of lead contamination.

*Question 3:*

I am interested in your views about the problem of unregulated industrial waste. Specifically, isn't something wrong with a system that focuses all of its attention on the 180 million tons of municipal garbage and the 300 million tons of RCRA regulated hazardous waste that are generated each year but ignores the more than 10 billion tons of industrial waste that are generated? A few states regulate industrial waste, much of which is hazardous but for some reason is not covered by RCRA, but most do not and the federal government does not. Don't we have our priorities backwards?

*Answer:*

Much of EPA's efforts to address the waste problem are driven by statute and by the availability of resources. Industrial waste is an issue that does deserve more attention.

*Question 4:*

What do you make of the GAO recommendations [regarding market incentives], Ms. Browner?

*Answer:*

As I testified during the hearing, I am a strong supporter of market incentives. I think they can be a valuable tool when applied appropriately. I also believe that many of the existing regulatory programs have made needed advances to clean up our air, and water and protect our soils.

*Question 5:*

In one of your recent public statements, you expressed support for the concept of full cost accounting. My understanding of the concept is that the cost of products and services should reflect their true cost, including costs on the environment. Can you define exactly what you mean when you use this term? Please give a few specific examples of environmental programs that you think could benefit from the implementation of that concept?

*Answer:*

I support efforts to more accurately estimate the costs of the choices we make. There is a tendency to include only the costs that are borne today, without considering long-term costs. Full cost accounting provides a more comprehensive assessment of the costs of a particular course of action. I believe this can be a useful tool not just within the environmental arena, but in all areas where cost accounting is used.

*Question 6:*

How do you view proposals to give [explicit] authority [over what arguably are sovereign matters] to this new [North American] Commission [on the Environment] (or any similar commission related to the NAFTA)?

*Answer:*

I believe that enhanced North American cooperation on environmental matters can serve as an example to the rest of the world. If confirmed, I would look to work closely with other members of the Administration to fulfill the President's commitment to a North American Free Trade Agreement and the development of ancillary agreements on labor and the environment.

*Question 7:*

In your view, once the EPA has delegated the wetlands program to a state, what types of federal oversight of the state's program are the most appropriate? Should individual permit decisions be reviewed?

*Answer:*

In my view the EPA should exercise those types of oversight that are sufficient to ensure compliance with the Clean Water Act. Section 404 of that Act currently allows the EPA to review individual permit decisions.

*Question 8:*

Should the sequencing process required under current law and regulation—which seeks first to avoid then minimize any impact on wetlands and finally compensate for unavoidable wetlands loss—be followed in all cases? The current administration has proposed to exempt Alaska from this process. Do you agree in principal with the sequencing process and would you support or oppose efforts to exempt Alaska, or other areas from the requirement to first seek to avoid wetlands loss?

*Answer:*

I believe that effective wetlands protection involves avoidance and minimization of, and compensation for, adverse wetlands impacts. If confirmed, I will review any proposals to modify the current section 404 regulations with respect to Alaska or any other areas.

*Question 9:*

Some have advocated formally classifying wetlands into categories according to their relative value and removing federal protection from the lower value wetlands. For example, legislation introduced in the 102d Congress would classify wetlands into 3 groups and remove protection for all “lower-value” wetlands. Would you support such a classification scheme? Can we afford to remove protection for any of our remaining wetlands?

*Answer:*

I have not studied the legislation referenced in your question. However, I believe that the functions and values of a wetland are factors that should be considered in wetlands permitting decisions, without compromising overall effective wetlands protection.

---

RESPONSES OF ADMINISTRATOR-DESIGNATE BROWNER TO QUESTIONS SUBMITTED BY  
SENATOR SIMPSON

*Question 1:*

If ongoing research or experience continue to indicate that the current Superfund liability scheme slows down cleanups or creates unwarranted transaction costs, will you support a change to the liability scheme?

*Answer:*

Many factors are likely to affect the pace of cleanup, including resolution of liability issues. During any Superfund reauthorization process, all factors affecting cleanup pace should be reviewed, as well as the reasons for those provisions.

*Question 2:*

Describe the role you envision for market based trading programs in Clean Air Act rule makings.

*Answer:*

The Clean Air Act provides for a specific trading program in the acid rain title. Rules for this trading system have been published. This Federal program is designed to allow trading among affected units nationwide to reduce costs. Included within this system are bonus allowances for Phase I and Phase II units to address regional concerns. I expect to implement the law fully, which includes the acid rain allowance trading scheme.

*Question 3:*

How should the relative effects of point and non-point source pollution be characterized and, once understood, how, if at all should their relative impact be reflected in targeting the nation's pollution control resources?

*Answer:*

Both point and non-point source pollution are important State and Federal water quality issues. The importance of one versus the other varies from one geographic area to another and both present significant national water quality problems. It is important that the Clean Water Act address the major sources of pollution in the

affected area. EPA, under my leadership, will work with Congress and the States to target resources most effectively.

*Question 4:*

What do you intend to do to resolve the present disagreement of the definition of wetlands—will you support cutting back jurisdiction from the 1989 manual?

*Answer:*

Currently, all Federal agencies are utilizing the 1987 manual. Future determinations will likely depend on the outcome of the National Academy of Sciences study mandated by Congress.

*Question 5:*

How do we balance our desire for a cleaner environment and jobs for our citizens? I know that the stock answer for some folks is that tougher environmental regulation will create new jobs in cleaning up the environment. But there is also an old saying that a smart parasite doesn't kill its host. How do we protect the jobs of employees who work for companies that are affected by tougher environmental rules? Shouldn't we consider these employees as well?

*Answer:*

By bringing commitment and imagination to regulation, I believe we can implement the laws, protect the environment and protect jobs.

*Question 6:*

I read in the Wall Street Journal that you rejected a proposal to use tradable restoration credits similar to those authorized by the Clean Air Act when they were suggested to help clean up the Everglades. Do you believe there is a role for market-oriented solutions to environmental problems? Can you give us a couple of areas where a market-oriented solution might be appropriate?

*Answer:*

I am a strong supporter of market-based solutions to environmental problems. I also believe that the solution must fit the problem. In the case of trading credits, for example, I believe that a well-defined universe of sources of pollution needs to exist and that there is an agreed-upon limit on the amount of pollution that will be accepted. In this regard, the acid rain allowance system is a good test case. There is a limited number of utilities and a total amount of sulfur dioxide Congress agreed should be emitted nationwide. We can use this experience to better define the circumstances under which market-based allowances are appropriate.

*Question 7:*

Past EPA administrators have stressed "good science" as the foundation of all environmental regulations. In practical terms, however, EPA seems to ignore the science and ends up compromising and regulating on the basis of "giving something" to everyone. We have seen this in past regulations, in particular, the Great Lakes initiative and the definition of wetlands. How would you as Administrator bring science back to the starting point in the regulatory process?

*Answer:*

I strongly believe that "good science" is essential to the mission of EPA. Science helps define the policy questions that need to be answered. Unfortunately, sometimes the questions we ask of science cannot be precisely answered because the questions are often both policy and science in nature. In the case of wetlands, specifically, Congress addressed the science question by mandating a National Academy of Science study on wetlands delineation.

*Question 8:*

Do you believe we have sufficient scientific knowledge about possible global warming to warrant mandated reduction of carbon dioxide emissions?

*Answer:*

I believe we know enough about global warming to begin taking action. There are many voluntary programs, including the "Green Lights" program already being implemented by EPA, that can reduce carbon dioxide emissions. These programs can be expanded.

*Question 9:*

Under the Clean Air Act, the allowance trading system is the backbone of the acid rain reduction program. However, some state's (sic) utility commissions are re-

quiring the use of locally mined coal. This action could wreak havoc in the trading system and goes against the least cost maximum flexibility approach. How do you plan to deal with states that have requirements which undermine the intent of the Clean Air Act?

*Answer:*

I understand the concern that State actions may block full use of credits under the acid rain allowance system. If confirmed, I will inquire into what authority, if any, the Administrator has to address State laws that may affect fuel choices in a manner that detracts from acid rain allowance trading.

*Question 10:*

Would you support prompt legislation or regulatory action to provide relief to commercial and utility mixed waste generators?

*Answer:*

I would implement the legislation enacted by Congress. I would need to review existing authority before making a determination about the need to change such authority.

*Question 11:*

Would you support this [storage exclusion] modification to EPA's hazardous waste permitting program?

*Answer:*

Mixed waste treatment, storage and disposal has been a difficult issue to resolve. I will review the pending petition and assess the need for and authority to grant such a petition.

*Question 12:*

What is your view of this MOU [Memorandum of Understanding between EPA and NRC] and, if confirmed by the Senate, will you adhere to the intent of this MOU?

*Answer:*

If confirmed, I will review the MOU. As I am not currently familiar with the specific provisions nor the history of its development, I am not prepared at this time to make a judgment about the MOU.

*Question 13:*

Do you agree with the Science Advisory Board's determination that the EPA should focus on regulating actual risk, or would you expand the scope of regulation to include perceived risk?

*Answer:*

Much of EPA's regulatory activities are dictated by statute. I would implement the law, addressing the needs of the public.

*Question 14:*

In light of our nation's goals under the Clean Air Act and the growing alarm over global climate change, what position do you believe that nuclear energy should fill in meeting this country's growing need for electricity?

*Answer:*

President Clinton has stated his concern with increased reliance on nuclear power until the waste disposal issue is adequately resolved. I agree with the President's position.

---

RESPONSES OF ADMINISTRATOR-DESIGNATE BROWNER TO QUESTIONS SUBMITTED BY  
SENATOR DURENBERGER

*Question 1:*

The Senate committee report accompanying the FY 1993 VA-HUD appropriations bill contains language that directs the Environmental Protection Agency to work with the states to assist them in giving priority attention to maintaining underground infrastructure, as well as directs the Department of Defense to work with EPA to develop a program which will result in the modernization of underground infrastructure on military bases. Please advise on what steps you would take to give priority to this directive and to respond to Congress in a timely fashion.



*Answer:*

If confirmed, I will review the report language and the issue of underground infrastructure with care. There is clearly a need for States and local communities to invest in such infrastructure. Unfortunately, the funding is extremely limited.

*Question 2:*

The Clean Air Act Amendments of 1990 mandate the use of low sulfur diesel fuel for on-highway vehicles beginning this fall. This requirement is based on a negotiated agreement between the oil industry, the trucking industry, the farm community and EPA. Congress simply inserted their proposal into the statute. However, there are additional costs in handling two grades of diesel fuel for the oil industry. Do you believe that the agreement reached by these interests should be modified to reduce these costs?

*Answer:*

If confirmed, I will implement the provisions of the Clean Air Act regarding low-sulfur diesel fuel. I will, however, certainly attempt to gain a better understanding of the problem you identify.

---

RESPONSES OF ADMINISTRATOR-DESIGNATE BROWNER TO QUESTIONS SUBMITTED BY  
SENATOR KEMPTHORNE

*Question 1:*

The federal Superfund law creates very broad liability for "owners or operators". Do you see an opportunity for creating a mechanism for persons to be able to approach the EPA to obtain a waiver of liability (a covenant not to sue) in a reasonable time frame? What solutions would you propose?

*Answer:*

In adopting the Superfund law, Congress determined that a specific Superfund liability structure was best suited for encouraging cleanup. I am committed to implementing the law in a reasonable and fair fashion. If confirmed, I will review the Superfund situation carefully and assess what steps can be taken administratively to address some of the concerns that have been expressed.

*Question 2:*

As Administrator of the U.S. Environmental Protection Agency, what steps would you take to implement a consensus-based approach?

*Answer:*

If confirmed, I would bring to EPA the experience I gained in Florida in developing consensus on difficult environmental issues. My experience demonstrates an ability to improve communications and develop working relationships with all parties to a dispute.

*Question 3:*

Do you support environmental protection based on incentives to individuals and industries, and if so, what role would you allow the private sector to play in developing adequate incentives?

*Answer:*

Incentives for individuals and industries can play an important role in achieving environmental protection even beyond those mandated by Congress. I would work with all interested parties in identifying such incentives.

*Question 4:*

Vice President-elect Gore has stated his support for a tax on carbon fuels to reduce "global warming gases," especially from automobile emissions. Do you feel that this is the best way to reduce these emissions? If so, why? If not, what role do you suggest EPA take in dealing with these "greenhouse gases"?

*Answer:*

I believe that global warming is a serious problem that needs action. Based on EPA's existing authority, I believe we should improve our inventory of greenhouse gases and that we can enhance voluntary programs like Green Lights program.

*Question 5:*

A recent movement has been underway in the environmental community to develop mandatory criminal sentencing for environmental violations. These sentences do not differentiate between the impact of the violation on the environment or the intent of the violators. Do you feel this is appropriate or should judges and juries be given more leeway to reduce fines and/or sentences for accidental, minor violations?

*Answer:*

I am not familiar with the movement you describe. However, if confirmed, I will implement the current criminal provisions of the law in a responsible and equitable manner.

*Question 6:*

What do you think EPA should do to assure USTs will be granted EPA approval once the owner(s) have met all existing environmental regulations? Would you support a policy of granting money lenders freedom from liability in cases of UST leaks if the lender never played any role in the management or daily operations of the tanks?

*Answer:*

EPA must do everything it can to provide timely answers to applicants that have submitted complete applications. I am committed to implementing the law and look forward to working with you and other members of the Committee who are concerned about underground storage tanks. My experience in Florida has given me many insights into the problems facing UST owners and we developed a unique response to their concerns.

---

RESPONSES OF ADMINISTRATOR-DESIGNATE BROWNER TO QUESTIONS SUBMITTED BY  
SENATOR SMITH

*Question 1:*

What is your view on this [radon in drinking water] regulation and, under your administration, can we expect a better organizational structure to allow EPA to take a comprehensive look at the impact of regulations and assess them on a relative risk and multi-media basis?

*Answer:*

I recognize the need for cross-media approaches by EPA in addressing radon and other issues and will review EPA's organizational structure to determine whether EPA's performance in this area can be improved.

*Question 2:*

Do you support using risk assessment and cost-benefit analysis in developing and implementing environmental policy?

*Answer:*

I believe that a variety of tools, including risk assessment and cost-benefit analysis, where permitted by law, should be used in implementing programs. As I indicated during my testimony before the Committee, I have extensive experience with cost-benefit analysis in Florida.

*Question 3:*

How would you endeavor to expand these effective approaches [Green Lights, 33/50] to environmental protection, particularly in programs presently dominated by traditional regressive and prescriptive measures?

*Answer:*

I fully support the "Green Lights" and "33/50" programs and support increased use of such innovative ideas, while complying with the law.

*Question 4:*

According to the groups involved in this process [staff task forces], there is great potential for producing positive results. Will it be your intention to continue the work of these task forces?

*Answer:*

I am not specifically familiar with the work of these task forces. I do support efforts to increase communication and consensus on important issues such as the definition of solid waste.

*Question 5:*

Given your opposition to hazardous waste incinerators in Florida, do you support EPA's established policy to view hazardous waste incineration as the preferred treatment technology? If not, do you believe better treatment technologies are presently available?

*Answer:*

As I testified during my confirmation hearing, I supported a temporary halt to the permitting and construction of new solid waste incinerators due to Florida-specific capacity problems.

*Question 6:*

What is your assessment of the problems that municipalities face in the liability system of Superfund? Do you support a universal liability exemption for municipalities?

*Answer:*

I am aware of the serious concerns expressed by municipalities involved in Superfund sites. If confirmed, I will review the situation as a part of my overall review of the Superfund program.

*Question 7:*

In his "Rebuild America" proposal, President Clinton has advocated investing some \$80 billion over four years in infrastructure projects. Although unclear at this point, we can assume that some of this money would be devoted to new highway and road construction. Do you agree that new highway and road will lead to some level of environmental destruction and possibly loss of wetlands? If so, what level of involvement will EPA have in assuring environmental compliance with regard to the President's infrastructure proposals?

*Answer:*

The environmental aspects of infrastructural investment programs need to be considered along with other factors in determining funding priorities. I would expect that EPA will have an opportunity to express its views as the President develops his economic program.

*Question 8:*

Under the Safe Drinking Water Act, 25 new contaminants are to be regulated every three years. What is your position with regard to the need for such additional regulation? Do you envision any major changes to the Safe Drinking Water Act?

*Answer:*

If confirmed, I will do my best to implement the law as written until such time as Congress amends it. If confirmed, I plan to review implementation of the Safe Drinking Water Act to determine if EPA can improve its performance.

---

ANSWERS OF ADMINISTRATOR-DESIGNATE BROWNER TO QUESTIONS SUBMITTED BY  
SENATOR DOLE

*Question 1:*

Many communities are finding that it costs them significantly more to recycle waste than to treat and dispose of it safely. State or local mandates may require communities to take scarce economic resources from other pressing public needs and devote them to expensive recycling programs. In light of that fact, do you support a federally mandated level of recycling? If so, what level?

*Answer:*

I support increased recycling as a method of conserving limited resources. Enhanced federal procurement policies can provide a needed boost to the market for recyclables. I welcome the opportunity to review and discuss federal recycling options that may be proposed by Senators and Members of Congress.

*Question 2:*

Do you believe that the White House has a legitimate function in reviewing agency rules to assure that they are consistent with legislative intent and are in the best interests of the country? Do you believe that the impact of proposed federal rules on U.S. competitiveness is a legitimate subject of inquiry by the White House?

*Answer:*

It is my understanding that the Office of Management and Budget (OMB) was established within the White House to review agency rules for the purposes that you identified. Existing Executive Orders delineate the scope and duration of OMB review of agency proposals. President Clinton will, I am sure, review these Orders and take necessary steps to ensure that agency rules are consistent with the intent of Congress and with the best interests of the U.S., including its competitiveness.

*Question 3:*

Have you a position on energy taxes for global warming issues?

*Answer:*

An energy tax is one approach to addressing global warming that has been advocated. Whether, or what kind of, tax may be considered is part of a larger discussion on the need to address the deficit as well as development of a global warming strategy.

*Question 4:*

Do you believe that government should consider the full benefits and costs of regulations before deciding whether to issue a regulation?

*Answer:*

EPA's first obligation in developing regulations is to comply with the law as written. I stated during my hearing that I believe a rational cost-benefit analysis can be helpful where permitted or required by law. I have extensive experience with this process in Florida. I also believe that cost-benefit analyses could be improved substantially to more accurately reflect the long-term impacts of choices we make today.

*Question 5:*

Do you believe that the government should issue regulations even if the benefits do not exceed the expected costs?

*Answer:*

EPA must issue regulations in accordance with the law. Whether the benefits exceed the costs depends upon the quality of the analysis, the many assumptions used in the analysis, and the purpose of the regulation. I look forward to building consensus for actions necessary to protect the environment.

*Question 6:*

What role do you believe risk assessment has in deciding whether to issue a regulation? Should we regulate substances if there is insufficient data to determine whether the substance causes harm?

*Answer:*

Whether to issue a regulation depends on a variety of factors, sometimes including risk assessment. I support improved risk assessment and believe it can, under the proper circumstances, be a valuable tool in environmental decision-making.

*Question 7:*

At a minimum, what kind of scientific data do you believe are needed before regulating a substance?

*Answer:*

The amount of data needed depends upon the circumstances, including, but not limited to, the basis of the authority to issue the regulation, the statutory standard for issuing the regulation (if any), and the proposed action to be taken.

*Question 8:*

For instance, do you support the trading of emissions between mobile and stationary sources? What about allowing emission trades between media sources (waste, air, and water sources) at a given plant?

*Answer:*

It is unclear to me at this time whether the current environmental statutes provide adequate authority for EPA to allow trading between mobile and stationary sources or among media. Whether this form of trading is acceptable would depend upon a number of factors. These factors include, but are not limited to, the nature of the authority, the enforceability of any reductions or trades, and the basis for the determination that the trades were of equal value.

*Question 9:*

How do you believe that we should respond to this concern [about Safe Drinking Water standards and municipalities' ability to pay]?

*Answer:*

As I stated during my confirmation hearing, I am very sensitive to the problems facing municipalities with implementation of the Safe Drinking Water Act. If confirmed, this is a high priority issue that I will want to pursue.

*Question 10:*

During the past few years, there has been considerable debate over how to define a wetland. In your view is this question largely scientific or does it also include questions of public policy when one considers the impact of this definition has on land use and real estate values?

*Answer:*

The regulation of wetland activities requires both scientific and public policy determinations.

*Question 11:*

Suppose for a minute that a landowner experiences a 75 percent devaluation in the value of her property because of a new government regulation defining it as a wetland, would you consider this a "taking?"

*Answer:*

The question of whether a particular action by the government constitutes a "taking" that requires just compensation under the Constitution is one that is appropriately left to the courts.

*Question 12:*

Do you believe all wetlands have the same value? Do you believe we should regulate all wetlands in the same way?

*Answer:*

All wetlands do not have the same value. I believe that the functions and values of a wetland are factors that should be considered in wetlands permitting decisions, consistent with the overall goal of effective wetlands protection.

*Question 13:*

Is it true that the Settlement Agreement that you supported sets a standard for the farmers that is cleaner than rainwater? How would you explain that standard?

*Answer:*

The intent of the regulatory program set forth in the Settlement Agreement is to reduce present amounts of phosphorous contained in waters discharged from the Everglades Agricultural Area prior to their entering into storm water treatment areas designed to reduce the levels of phosphorous in waters entering the Refuge and Park.

*Question 14:*

Would you mind providing the committee with the scientific basis for that standard? ANSWER: Under Florida law, for Class III waters of the state, the standard is a narrative one: "In no case shall nutrient concentrations of a body of water be altered so as to cause an imbalance in natural population of flora or fauna."

*Question 15:*

Recent estimates from the University of Tennessee suggest that the cost of hazardous waste cleanup in this country is close to \$1 trillion, based on complying with the current statute and regulations. At the same time, we have also heard that the expected health benefits of cleaning up these sites are very small. In light of these statistics, do you think there are higher value uses for this money in say, health care education, or research and development?



*Answer:*

The cost of cleaning up private and public hazardous waste sites has been high. It is important, however, to develop improved cleanup technologies and learn more about efficient ways to protect public health and the environment.

*Question 16:*

Ms. Browner, given the interests of the Clinton-Gore Administration and this Committee's interest in urban revitalization and improvement in our infrastructure, how will your agency deal with the "no growth policy" in the non-attainment title (Title I) of the Clean Air Act Amendments of 1990?

*Answer:*

If confirmed, I will implement the requirements of the environmental statutes enacted by Congress, including the Clean Air Act.

*Question 17:*

How would you expedite cleanup of the nation's approximately 1,200 Superfund sites?

*Answer:*

The pace of cleanup is a problem in almost every State. I am concerned about this problem and committed to making it one of my top priorities if I am confirmed.

*Question 18:*

How would you describe your reaction to the cooperative, performance driven policies of western European countries such as Germany, Holland, Sweden and Norway on environmental issues. Some have argued that these policies and performance goals encourage better and more reliable environmental performance while encouraging economic improvement and higher broad industrial productivity. What is your reaction to looking to Germany, Holland or other nations as a model for environmental performance based regulations?

*Answer:*

I support efforts to improve environmental protection while encouraging economic growth and industrial productivity. In this and other areas, I believe that we should be open to learning from the experiences of other nations and sharing our experiences and expertise with them.

*Question 19:*

Do you favor allowing a source to assume the risk that plant-site changes will be in compliance with the law while awaiting permit approval?

*Answer:*

I plan on assuring that permits (including permit changes) are issued in compliance with the relevant law.

*Question 20:*

What do you envision Mr. Gore's role will be relative to environmental regulation and EPA?

*Answer:*

If confirmed as EPA Administrator, I will be responsible for the activities of the Agency.

*Question 21:*

You stated in Little Rock at the economic conference that you thought there were too many permits for the same project, too many "bites at the apple." How in fact would you streamline the permit process as it currently exists?

*Answer:*

Certain activities in Florida waters have required permits from anywhere between one to four different government agencies, including my agency. As Secretary of the Department of Environmental Regulation, I worked with a number of these agencies to streamline the permitting process by placing responsibility in only one agency. If confirmed, I will seek similar opportunities.

RESPONSES OF ADMINISTRATOR-DESIGNATE BROWNER TO QUESTIONS SUBMITTED BY  
SENATOR DeCONCINI

*Question 1:*

How would you propose expanding the EPA's role to ensure that the Commission provides effective oversight and environmental protection for the continent?

*Answer:*

I believe that enhanced North American cooperation on environmental matters can serve as an example to the rest of the world. If confirmed, I will review the operations of the existing Commission on the Environment and determine whether its effectiveness can be enhanced.

*Question 2:*

In light of the shortcomings, are you prepared to renegotiate the La Paz agreement?

*Answer:*

I am not familiar with this particular issue, but, if confirmed, I will review the agreement and its implementation.

*Question 3:*

Are you, as EPA Administrator, prepared to consult with the U.S. Trade Representative and the Secretary of State to extend [the "Action Plan"] promises and safeguards into the Clinton Administration?

*Answer:*

If confirmed, I am prepared to consult with the Trade Representative and the Secretary of State concerning environmental issues related to NAFTA.

*Question 4:*

How will you, as EPA Administrator, continue the air quality standards established at the Grand Canyon as balanced with the rate payers dependent on the power established by the Navajo Generating Station?

*Answer:*

I will implement the provisions of the Clean Air Act, including the visibility provisions.

*Question 5:*

Do EPA regulations contain flexible definitions and provisions which allow a State delegated permit program to provide conditions to protect needs and encourage special treatment of certain geographic or climatological areas for the mutual long term benefit of humans and an enhanced environment?

*Answer:*

At the direction of Congress, the National Academy of Sciences is reviewing the methodology and making recommendations concerning the delineation of wetlands in various geographic areas. If confirmed, I will review the extent to which current law and EPA regulations allow a state delegated permit program to provide conditions to protect certain geographic or climatological areas.

*Question 6:*

Does the Federal Water Pollution Control Act provide the EPA with sufficient authority for regulatory flexibility in regulating waste water treatment and effluent of other pollutant discharges?

*Answer:*

I am not prepared to make this assessment at this time. If confirmed, I will review the extent to which the Act provides the EPA with such regulatory flexibility.

*Question 7:*

Innovative solutions that have been suggested for border environmental problems include providing U.S. loans or appropriations, perhaps in the form of EPA grants, to assist Mexico in clean-up of the border area. It has been suggested, for instance, that the U.S. might provide material assistance in installation of best available modern equipment at the Cananea, Sonora, copper smelter to help the antiquated Mexican facility meet the goals of the La Paz Agreement. How do you suggest the EPA assist in these and other innovative approaches to clean up border pollution?

*Answer:*

I support innovative solutions to border environmental problems. Solutions requiring increased federal spending must be balanced with the need to address the deficit and other concerns. I look forward to working with you and others to address these important issues.

*Question 8:*

Local non-governmental organizations in the border area have established strong binational working relationships and have taken the lead in developing effective environmental protection programs. These groups say that in general they have found the state and federal governments in Mexico far more cooperative than EPA in their attempts to address border environmental problems. How can EPA do more to provide technical and financial resources to and otherwise foster these local efforts of citizens in the border region?

*Answer:*

Partnerships among federal and state agencies and private interests have proven to be extremely effective in other circumstances. However, I am not familiar with the situation that you have described. If confirmed, I will be pleased to explore further this matter with you.

*Question 9:*

The International Boundary Water Commission has been criticized for many of the same shortcomings as the NAFTA and the La Paz Agreement, including failure to respond to local citizen needs, lack of public participation, and failure to establish transboundary environmental standards. How can the EPA play a stronger role in the issue areas like groundwater protection that IBWC now has de facto responsibility for but no traditional experience with?

*Answer:*

I am not familiar with the issues that you have raised with respect to the International Boundary Water Commission, but I look forward to working with you and others on this matter.



3 9999 05982 737 6



Working for the Nature of Tomorrow.

NATIONAL WILDLIFE FEDERATION, 1400 Sixteenth Street, N.W., Washington, D.C. 20036-2266 (202) 797-6800

Office of the President

January 12, 1993

HAND DELIVERED

The Honorable Max Baucus  
Chairman  
Committee on Environment and Public Works  
United States Senate  
Washington, DC 20510

Dear Max:

The National Wildlife Federation, on behalf of its 5.3 million members and supporters, and especially its affiliate, the Florida Wildlife Federation, enthusiastically supports the nomination of Carol Browner as Administrator of the Environmental Protection Agency. Please include this letter in the Committee's confirmation hearing record.

Ms. Browner is a dedicated environmentalist with an uncommon ability to make government work. As the Secretary of the Florida Department of Environmental Regulation, Browner faced tight budgets and the usual array of political opposition. But with unusual skill and energy, she prevailed where others might have given up. Her tenure in government has given new hope to those who care about Florida's endangered species, wild places and the national treasure that is the Everglades.

Under her leadership, the State government dramatically shifted its enforcement posture on major environmental problems. For example, where the Florida State government once abetted the agricultural abuse that has destroyed large parts of the Everglades, it is now part of the solution, allied with environmentalists in the effort to restore that uniquely valuable resource. In another part of Florida, after 50 years of averting its gaze, the State is now embarked on aggressive efforts to force pulp mills to cleanup the Fenholloway River.

In the area of wildlife habitat, Browner has consistently supported Florida's aggressive conservation acquisition programs. One such acquisition enlarged the Big Cypress Swamp National Preserve to include habitat vital to the Florida panther. Another opened a wildlife corridor connecting the Osceola and the Okefenokee Swamps.

Among the many other problems that have received needed attention from Browner are wetlands loss, mercury contamination of fish, and the human health consequences of lead poisoning.

Senator Max Baucus  
January 12, 1993  
Page 2

We agree with Browner that the choice between economic growth and environmental protection is a false choice, and that in the long run, a strong economy cannot be built on a base of deteriorating natural resources.

We look forward to working with Carol Browner as she applies her remarkable skills and experience to the national environmental agenda.

Best personal regards.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jay", with a stylized flourish at the end.

JAY D. HAIR

JDH:mm

○



ISBN 0-16-040165-8



9 780160 401657

90000

